50TH ANNUAL REPORT

OF THE

INTERSTATE COMMERCE COMMISSION

NOVEMBER 1, 1936

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1936

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REPORT OF THE

INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C., *November 1, 1936.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its fiftieth annual report to the Congress. Plans are being made to take appropriate notice of the completion of a half century of its existence. The period covered by this report extends from November 1, 1935 to October 31, 1936, except as otherwise noted.

A statement of appropriations and aggregate expenditures for the fiscal year ended June 30, 1936, is contained in appendix H to this report.

TRAFFIC AND EARNINGS OF TRANSPORT AGENCIES

Since our last report the steam railways have experienced a further revival of traffic, both freight and passenger, and their gross and net earnings have increased substantially. The traffic of 1934 and 1935 was somewhat larger than that of 1933 but the upturn is being accelerated in 1936. The total operating revenues of the railways were 16.7 percent greater in the first 9 months of 1936 than in the corresponding period in 1935. The improving trend in rail traffic and revenues is clearly shown by the following figures:

Index numbers of traffic and revenues of class I steam railways seasonally adjusted

[Average of 1923–25=100]

Period	Freight ton-miles	Freight revenue	Passenger-miles	Passenger revenue
Low of 1933 (March)	51.6	46.0	36.0	25.7
1935				
January	69.7	61.6	50.3	33.0
February	71.8	61.9	50.6	33.4
March	75.3	62.0	49.5	32.5
April	68.3	61.8	50.1	32.1
May	66.9	59.4	47.4	31.3
June	73.7	63.5	47.3	31.8
July	61.2	58.5	47.8	31.4
August	63.2	57.6	50.4	32.4
September	71.2	62.5	49.4	31.8
October	69.8	62.6	51.5	33.5
November	71.5	64.0	53.2	34.0
December	75.2	68.6	58.5	36.2
1936				
January	78.0	70.4	57.2	36.9
February	83.7	71.1	57.6	37.8
March	77.5	68.2	55.6	35.7
April	80.9	71.4	57.0	36.2
May	82.2	71.8	54.3	35.1
June	80.9	73.3	57.7	35.6
July	83.3	75.3	63.1	38.9
August	81.5	71.7	62.7	37.7
September	----	70.6	----	37.6

From the above table it appears that, counting in seasonally adjusted percentages of the 1923–25 average taken as a base, the indexes have risen as follows: For freight ton-miles, from a low in 1933 of 51.6 to 81.5 in the latest month shown; for freight revenue, from 46.0 to 70.6; for passenger-miles, from 36.0 to 62.7, and for passenger revenue, from 25.7 to 37.6. The better showing for the ton-miles and passenger-miles than for freight and passenger revenues, respectively, reflects the decline in the level of the charges to the public, illustrated by the following comparison:

Month of July	Revenue per—	
	Ton-mile	Passenger-mile
	Cents	*Cents*
1923–25	1.107	2.81
1936	1.002	1.73
Percent of decrease [1]	9.5	38.4

[1] These decreases are in part a consequence of the change in length of haul or journey.

It is evident that motor competition has had a relatively much greater adverse effect on the rail passenger-miles than on the ton-miles. By various improvements in service, the most important being air-conditioning, passenger service by rail has recently been much more attractive than it was formerly. That effort in this direction is of basic importance in the railway economy is strikingly shown by the following comparison of earnings, expenses, and net revenue of the freight and passenger train services taken separately.

FREIGHT SERVICE

Year	Revenues (millions)	Expenses (millions)	Net revenue before taxes and rents (millions)	Operating ratio (percent)
1925	$4,696	$3,345	$1,350	71.24
1929	4,979	3,334	1,645	66.96
1932	2,532	1,696	836	66.97
1933	2,576	1,618	958	62.82
1934	2,725	1,769	956	64.91
1935	2,894	1,874	1,021	64.74

PASSENGER, MAIL, EXPRESS, ETC.

1925	$1,427	$1,192	$235	83.52
1929	1,300	1,172	128	90.14
1932	595	708	[1] 113	118.98
1933	520	631	[1] 111	121.43
1934	546	673	[1] 127	123.16
1935	558	719	[1] 161	128.95

[1] Deficit.

Between 1925 and 1935 the freight revenue fell relatively less than the passenger revenue, but the freight expenses were cut relatively

more than the passenger expenses. The freight net was lowest in 1932 and has progressively improved while the passenger deficit, in spite of an increase in gross revenue after 1933, was worse in 1934 and 1935 than in 1932 and 1933. It should be noted that included in the expenses of each of the services is a proportion of the roadway maintenance and other common expenses based on the relative use of the track.

The following table affords some basis for comparing the growth of highway and rail traffic since 1923:

Year	Number of motor vehicle registrations at close of year [1]		Average monthly consumption of gasoline (thousands of barrels) [2]	Class I steam railways			
	Passenger (thousands)	Trucks (thousands)		Operating revenues (millions)	Car-miles, all services (millions)	Revenue freight ton-miles (billions)	Passenger-miles (billions)
1923–25 average	15,479	2,063	15,711	$6,111	29,536	405	36.7
1929	23,122	3,380	31,039	6,280	33,651	447	31.1
1930	23,059	3,486	32,900	5,281	30,062	383	26.8
1931	22,366	3,467	33,621	4,188	25,541	309	21.9
1932	20,886	3,229	31,158	3,127	20,316	234	17.0
1933	20,616	3,227	31,417	3,095	20,564	249	16.3
1934	21,524	3,409	33,868	3,272	22,136	269	18.0
1935	22,565	3,656	36,044	3,452	22,457	282	18.5

[1] Automobile Facts and Figures, Automobile Manufacturers Association.
[2] Survey of Current Business, Department of Commerce.

Compared with the 1923–25 average the increase in motor vehicle registrations by 1929 was 49.38 percent for passenger vehicles and 63.84 percent for trucks. Gasoline consumption, which roughly measures the use of the highway, in 1929 was up 97.56 percent over the base and was still higher in 1931, while the railway items in the table show very modest increases to 1929. By 1935 the motor truck registrations and gasoline consumption were above the 1929 peak but the railway traffic and revenues, although up from the lowest depression level, remained far below the peak. In 1936 both highway and rail traffic have shown a decided upswing from the 1935 levels. Reliable statistics showing the traffic and earnings of the highway carriers are not yet available.

The railways have expanded maintenance expenditures. Exclusive of depreciation charges, the maintenance of way, structures, and equipment expenses increased from $575,888,891 in the first 8 months of 1935 to $683,174,596 in the same period of 1936, or 18.6 percent.

Correspondingly, the number of employees has increased. The numbers of persons employed by class I railways was 1,090,485 at the middle of the month of August 1936, or 79,455 more than the number reported for August 1935. Our index of railway employ-

ment, seasonally adjusted, has been as follows for the months of August in recent years:

Index of railway employment

[Percent of 1923–25 average]

	Average
August 1934	56.4
August 1935	55.2
August 1936	59.6

It is of interest to note in this connection that the total pay roll of class I railways for the 7 months ended with July 1936 was 62.8 percent of the average pay roll of the 1923–25 comparable period.

The recovery in gross earnings is having a favorable effect on the net earnings from operation. For the month of August 1936 the net railway operating income of class I railways was 53.4 percent greater than that of August 1935, and was higher than for the month of August in any of the preceding years to and including 1931. For the first 8 months the corresponding percentage was 38.2. The net railway operating income of class I railways for 1935 was equivalent to 2.17 percent of their net book investment of 23 billion dollars at the close of that year after deduction of accrued depreciation. This includes the investment of the leased lines and proprietary companies. For the 12 months ended with August the rate of return on the same base was 2.6 percent.

The general level of wages and of freight rates was the same in August 1936 as in August 1935, but the emergency freight charges which became effective on April 18, 1935, and somewhat reduced on June 30, 1936, are scheduled to expire on December 31, 1936. The average level of wholesale prices of materials has risen only slightly in the past 12 months, but it is very much above the low levels of 1932 and 1933. The average for all commodities, as reported by the Department of Labor, was 80.9 percent of the 1926 level on September 5, 1936, 80.4 percent on September 7, 1935, and 65.7 percent on September 10, 1932.

The recovery in net railway operating income has improved the relation between the income and fixed charges. For the 12 months ended with July 1936, the net income of class I railways above fixed (and contingent) charges was $70,420,818. In each of the calendar years 1932–35, such charges exceeded the income. For the month of July 1936, 73 class I railways or systems reported a net income and 62 a net deficit, whereas for July 1935, 44 had reported a net income and 91 a net deficit.

In computing the net income, all of the accrued interest on unmatured funded debt is included in the deductions even though a part of the accrued interest is in default. During the year 1935 the

excess of the accruals over the payments amounted to $102,113,680. The number of all classes of steam railways in reorganization or receivership proceedings on October 1, 1936, was 87. Their operated mileage was 68,345 or 26.9 percent of the total miles of steam railway operated.

The tendency in gross earnings of other carriers filing annual reports with us is shown in the following table:

Class of carrier	Annual operating revenues (millions of dollars)				Percent 1935 of 1923–25 average
	1923–25 average	1929	1932	1935	
Water lines	$125	$138	$80	$98	78.23
Express companies	157	145	90	91	58.34
Pullman company	76	84	44	50	65.56
Pipe lines	148	251	212	197	133.72
Electric railways [1]	218	153	71	55	25.28

[1] Does not include city street railways.

Excepting the electric railways, these carriers had relatively better gross earnings in 1935, compared with the 1923–25 average, than did the steam railways, for which the percentage comparable with those given in the last column of the table was 56.25.

In sharp contrast with the experience of the above mentioned agencies is the growth of air commerce since 1929. Although the number of airplanes was less, the volume of traffic was much greater in 1935 than in 1929 as shown by the following figures:

Domestic scheduled air-line operations [1]

Item	1929	1932	1934	1935
Number of airplanes in service and reserve	442	456	417	356
Pounds of express and freight carried (thousands)	1,859	1,703	2,133	3,822
Pounds of mail carried do	7,772	7,909	7,872	13,780
Number of passengers do	160	474	462	747
Airplane miles flown do	22,380	45,606	40,955	55,380

[1] From Air Commerce Bulletin, Department of Commerce. Miscellaneous flying operations not included.

INCREASES IN FREIGHT RATES AND CHARGES, 1935

The emergency charges authorized in our original report in this proceeding, *Emergency Freight Charges, 1935* (208 I. C. C. 4), which were described in our annual report for 1935, were approved for application until July 1, 1936. On January 24, 1936, the rail and water carriers on whose application the charges had been authorized filed a supplemental petition, seeking permission to continue the charges indefinitely beyond the expiration date. Thereupon we reopened the proceeding for further hearing. The taking of additional

testimony was completed in April 1936, and oral argument was heard in the latter part of the following month. Our decision on further hearing, rendered June 9, 1936 (215 I. C. C. 439), authorized continuance of the emergency charges for the remainder of the current calendar year except for a few modifications, the most important of which were reductions in the maximum emergency charge on coal from 15 cents per net ton to 10 cents and on iron ore from 10 cents per net ton to 8 cents. Unmanufactured tobacco was added to the commodities previously exempted from any emergency charge.

Renewing their effort to incorporate the emergency charges in the permanent rate structure, applicants filed a petition July 27, 1936, asking for a general order amending all outstanding orders in other proceedings to permit the filing of new rates increased in the amount of the emergency charges and for certain other relief essential to the same objective. We denied this petition August 3, 1936. On October 23, 1936, the class I railroads with a few exceptions filed petition, praying for the modification of outstanding orders in nearly 1,000 specified cases to enable petitioners to publish and file tariffs providing for increased rates, which to a large extent would be equivalent to the present rates plus the emergency charges, and also asking for requisite fourth-section relief. For the administrative handling of this petition a new proceeding, docketed as *Ex Parte No. 118*, has been instituted.

CLASS RATE READJUSTMENTS

Lake and rail class and commodity rates.—At the time of the last annual report this proceeding was awaiting our supplemental report on reargument, which has been made (214 I. C. C. 93). We affirmed our original findings (205 I. C. C. 101), prescribing maximum reasonable joint lake-and-rail rates on class and related traffic moving partly by boat on the Great Lakes and partly by railroad, between all that portion of official territory lying southeast and east of Lake Erie and Illinois-western trunk-line territories, via Lake Michigan and Lake Superior ports. As previously stated, the rates prescribed had been established prior to the supplemental report.

Consolidated Southwestern cases.—In our last annual report we spoke, with respect to these cases, of our recent general revision of the all-rail class rates between southwestern points, i. e., in Oklahoma, Arkansas, Texas, and Louisiana west of the Mississippi River, and between those points, on the one hand, and points in the States north, northeast, and east thereof, on the other (205 I. C. C. 601), but remarked the pendency of certain carrier and shipper petitions for reconsideration. Since then we have disposed of the petitions (211 I. C. C. 575), in the course of which we made certain modifications of the adjustment previously prescribed.

At the latter time we also prescribed ocean-rail, rail-ocean, and rail-ocean-rail rates for maximum application between the Southwestern States and the north Atlantic seaboard and adjacent interior territory (211 I. C. C. 601), referred to in our last annual report. A petition, filed by shipper interests, for certain modifications of the prescribed adjustment is pending.

By the terms of our outstanding orders the respective rates so prescribed are to be made effective February 8, 1937.

Because of the wide scope of these cases, and of gradually changing conditions, it has been found necessary to make certain revisions of particular all-rail features from time to time, the most important recent one having been the elimination, in 218 I. C. C. 11, of the northern, central, and western portions of Kansas from the prior findings and orders.

Western-Southern class rates.—In this investigation on our own motion into the lawfulness of the all-rail interterritorial rates, on traffic moving under ratings provided by classifications and classification exceptions, between all points in western trunk-line territory combined with southern Missouri and all points in southern territory, the report proposed by the examiners with their recommended conclusions and findings was issued. The parties have filed exceptions thereto and made their oral argument before us. The proceeding is awaiting our decision.

Southern border class-rate cases.—Decisions were reached in cases arising from complaints concerning class rates between points in official territory, on the one hand, and points in Kentucky, North Carolina, southern Virginia, and northeastern Tennessee, on the other. *Commonwealth of Kentucky* v. *Ahnapee & W. Ry. Co.* (213 I. C. C. 297), *North Carolina Corp. Comm.* v. *Akron, C. & Y. Ry. Co.* (213 I. C. C. 259), and *East Tennessee Border Traffic Assn.* v. *Akron, C. & Y. Ry. Co.* (214 I. C. C. 316). The rate bases prescribed in all three reports are substantially identical and, for the most part, had the effect of reducing the present rates and producing a greater degree of harmony with the rates in official territory immediately north of the interterritorial border.

Southern territory.—In a number of petitions recently filed the southern State regulatory commissions and shipper interests ask us to institute an investigation, on our own motion, into the present railroad freight rates on traffic moving under the numbered classes provided by ratings in southern classification and exceptions to that classification, as well as on traffic moving under rates made definite percentages of column 100 (first class), between points throughout southern territory. The present class rates, to which railroad carriers have related certain commodity rates by percentage columns,

are the result of our decisions in a proceeding instituted on February 6, 1922, *Southern Class Rate Investigation* (100 I. C. C. 513, 109 I. C. C. 300, 113 I. C. C. 200, and 128 I. C. C. 567). Petitioners aver that the class rates are based upon a record made during the years when economic conditions were unusual and when the country was enjoying a period of prosperity far different from anything that has existed since the rates became effective. They allege that the rates assailed are unjust and unreasonable, injuring not only shippers but also the southern railroads, and pray that upon the investigation sought we issue an order requiring the establishment of just and reasonable rates on this traffic. The petitions are receiving due consideration.

Utah common points.—Upon complaint (no. 26720 et al.) we prescribed maximum reasonable all-rail class rates between Utah common points and western trunk-line-official territories, made on basis of distance scales prescribed in *Western Trunk Line Class Rates* (204 I. C. C. 595), constructed in the same manner as rates in the latter to zone IV, the entire distance west of zone III to be treated the same as like distances in zone IV (216 I. C. C. 481).

Montana.—Present class rates to central and eastern Montana over all-rail routes from points in western trunk-line and central territories, and over rail-lake-rail routes from points in Atlantic seaboard territory, are assailed as unreasonable and unduly prejudicial by two associations of Montana shippers in a formal complaint (no. 27423). Hearings therein have been set.

DROUGHT RELIEF RATES

In our last two reports we directed attention to reduced drought-relief rates on livestock and feeds voluntarily established by western railroads during the great drought of 1934, and the lesser drought of 1935, and to the cooperative measures taken by the Department of Agriculture and this Commission in connection with the establishment and maintenance of such rates. These rates were authorized by orders entered by us under section 22 (1) of the Interstate Commerce Act, as amended by the Emergency Appropriation Act of June 19, 1934. By the end of 1935 all such rates had expired, the need therefor having disappeared.

Excessive heat and black rust so affected the germinative qualities of the 1935 grain crop in many sections of Minnesota and the Dakotas as to render it unfit for seed purposes and 1936 planting. Early in 1936, to relieve this situation reduced rates, on the basis of 50 percent of the wheat rates, were established for application on barley, oats, and wheat seeds to points in the affected area from Minneapolis and Duluth, Minn., where considerable quantities of high-grade seed were held by the Federal Surplus Commodities Corporation, a Gov-

ernment agency. These reduced rates, authorized by our order of February 8, 1936, expired with May 15, 1936.

By June 1936 drought and high temperatures once more seriously affected considerable agricultural areas in Wyoming, North and South Dakota, and Montana. The western railroads then again decided to establish emergency rates on livestock out of drought-stricken areas, and on feed into such areas. The basis determined upon was generally the same as in 1934 and 1935, viz, on livestock, 85 percent of the tariff rate out-bound with the privilege of return within 1 year at 15 percent of the commercial rate; on hay and forages, 50 percent of the tariff rate; and on other feeds 66⅔ percent of the tariff rate. The first of such rates were established July 2, 1936, embracing areas in the four above-named States, and were confined to single-line movements of livestock, hay, and forage.

The territory affected by drought rapidly increased so as to embrace most of the area west of the Mississippi River and east of the Rocky Mountains, and portions of the South. As the drought area was extended, additional western railroads joined in the establishment of reduced rates. Gradually such rates were spread so as to apply to practically all the stricken area in western territory; to include feeds other than hay and forage; and, in many cases, to embrace hauls over two or more lines. In addition, on cattle from points in Kansas and Oklahoma to points in Texas relief was afforded on basis of 75 percent, and subsequently 50 percent, of fat-cattle rates. This relief, authorized by orders entered in August 1936, was intended principally to permit the return of cattle which had been shipped last year from Texas drought points to feeding points in Kansas and Oklahoma, held there beyond the return date limit, and caught in this year's drought in the latter States.

As in the 1934 and 1935 droughts, the Department of Agriculture, based upon reports from its field agents, from time to time designated areas sufficiently affected by drought to be in its opinion entitled to drought-relief rates. The railroads then filed applications with us under the provisions of section 22 (1) of the Interstate Commerce Act which permit reduced rates with the object of providing relief in cases of drought and other disasters, if such reduced rates have been authorized by us in an order defining the sections affected by the drought and specifying the period during which the reduced rates are to remain in effect. All such applications were given immediate attention, and all received favorable action within 24 hours from the filing of the application. Up to and including October 26, 14 such orders, and 30 amendments thereto, have been issued embracing reduced rates on livestock or feed, or both, to and from areas in Montana, North Dakota, South Dakota, Kansas, Nebraska, Oklahoma, and Wyoming. In all cases the drought-relief rates were confined to

the lines of western railroads. The railroads serving areas in the East and South affected by drought have been of the opinion that the situation there was not sufficiently serious upon their lines to make the establishment of such rates necessary.

Throughout the drought of 1936, as in the case of the previous droughts, the railroads serving drought-stricken areas have cooperated in the establishment of reduced rates both on feeds and on livestock. This action has been dictated by enlightened self-interest, for the preservation of the agricultural industry in the territory served by their lines, and is economically far-seeing, as well as being presently humanitarian in purpose. However, it is generally their position that they should not be called upon to make reduced relief rates for dealers, industries, or even for farmers and stock-raisers not in distress, but that they should be permitted to confine their reduced rates to farmers and stock-raisers certified as needy by authorized representatives of the Federal or State Governments, without thereby subjecting themselves to possible liability for the payment of reparation to shippers not so designated, who may prosecute claims for reparation based on the grounds of unjust discrimination or undue prejudice and preference. As outlined in our report for 1935, during the 1934 drought, in addition to the provisions of section 22 (1) of the Interstate Commerce Act, there was also in effect a provision of the Emergency Appropriation Act of June 19, 1934, to the effect that if during the then-existing drought emergency, a carrier subject to the Interstate Commerce Act should, at the request of any agent of the United States, authorized so to do, establish special rates for the benefit of drought sufferers, such carrier should not be deemed to have violated the Interstate Commerce Act by reason of the fact that such special rates were applied only to those designated as drought sufferers by authorized agents of the United States or of any State. This provision, being limited to the "then-existing drought," expired prior to the drought of 1936. This provision was inserted to enable the "certificate plan" to be employed, whereby the organized forces of the Federal Government and the States supervised the measures taken for drought relief, and to protect cooperating rail carriers from liability growing out of their compliance with the directions of the relief authorities.

In 1932 certain railroads, purportedly by authority of an order entered by us under section 22 (1), established drought relief rates applicable to areas designated in such order, but limited their application to persons certified by authorized representatives of the Department of Agriculture as farmer-consumers of hay and feed, and farmer-shippers of livestock, in distress, who are faced with an emergency condition due to the continued drought, and provided that such rates would not be made for the benefit of dealers, industries, and

others who are not in distress. The local representative of the Department of Agriculture having refused to issue a certificate to an individual engaged in farming and the production of livestock in a designated drought area, on the ground that he did not come within the above limitations, reduced rates were refused to him on certain shipments of feed and livestock made for his account. Thereupon he complained, alleging that the assessment of the regular tariff rates was unreasonable, and was unjustly discriminatory and unduly prejudicial in that reduced rates were made for others in the same area suffering from the same drought but who were certified by representatives of the Department of Agriculture as within the above limitations. In *Stuart* v. *Norfolk & W. Ry. Co.* (191 I. C. C. 13), decided January 18, 1933, we held that the provisions of section 22 (1) did not authorize carriers to discriminate as between individuals within a designated drought area in such manner, and that the failure to accord the reduced emergency rates to the complainant was unjustly discriminatory and unduly prejudicial. Reparation was awarded for damages shown to have been sustained.

At the outset of the 1936 drought many of the railroads for a time overlooked the fact that this provision had expired, but soon became alarmed at the prospect of being forced to permit the application of emergency reduced rates on shipments for dealers, industries, and others not in distress, as well as for needy persons. At one time it appeared likely that for this reason all reduced drought-relief rates would be discontinued. In an effort to meet this difficulty many rates in the latter part of the summer were no longer made under orders obtained from us under the drought-relief provisions of section 22 (1), but were made without the filing of tariffs and without our approval, being designated as rates

for charitable purposes which apply only on shipments consigned to designated State or Federal government representatives.

Such rates were ostensibly made under the first clause of section 22 (1);

Nothing in this part shall prevent the carriage, storage, or handling of property free or at reduced rates, for the United States, State, or municipal governments, or for charitable purposes, * * *.

The establishment of emergency rates in this manner is fraught with many difficulties which may cause carriers, otherwise willing, in future to refrain from making such concessions. In the absence of the use of public funds for the purpose of supplying feed for free distribution at Government expense, many shipments obviously must be made for account of individuals and not directly for account of the Federal or State Governments. The making of rates without the filing

of tariffs results in much uncertainty among buyers and sellers, and tends to prevent uniform and satisfactory application of the reduced rates for account of all whose necessities in time of great emergency are equal. Opportunities for the exercise of favoritism are greater than if clear and unambiguous tariffs are filed specifying the conditions upon which reduced rates are available.

We recommend that the provisions of section 22 (1) having to do with the establishment of reduced rates for interstate transportation with the object of providing relief in the case of calamitous visitations or disaster be so amended as to provide that carriers subject to the act shall not be deemed to have violated that act with reference to undue prejudice or preference or unjust discrimination by reason of confining the application of such rates to those designated by authorized agents of the United States or of any State as in distress and in need of relief, and provided such rates be made only after the publication and filing of tariffs specifying the areas to or from which such rates apply and the period during which they are to remain in effect, and clearly defining the classes of persons entitled thereto.

PASSENGER FARES

In previous reports we referred to the almost constant decline since 1923 in the number of passengers carried by and in the passenger revenues of the railroads, and to the steady increase in the number of passengers carried by other agencies of transportation. We mentioned the experimental, reduced fares which became effective December 1, 1933, and have since been maintained, of 1.5 cents per passenger-mile in coaches and 3 cents, one way, in sleeping and parlor cars in the South, and of 2 cents in coaches and 3 cents, one way, in sleeping and parlor cars in the West; and to the fact that the eastern carriers were still maintaining their basic fares at 3.6 cents in all types of equipment, plus a Pullman surcharge equivalent to about 0.5 cent per mile. We said that we had instituted an investigation, entitled Docket No. 26550, *Passenger Fares and Surcharges*, into the lawfulness of the passenger fares and Pullman surcharges maintained on all common carriers by railroad subject to our jurisdiction, and that at the time of our last report that proceeding stood submitted and a decision might be expected shortly.

On February 28, 1936, the Commission adopted a report and order in Docket No. 26550, in which a maximum fare basis of 2 cents in coaches and 3 cents in sleeping and parlor cars, the Pullman surcharge being eliminated, was fixed for general application on all railroads subject to our jurisdiction, with certain unimportant exceptions. That fare basis became effective in the eastern district on June 1, 1936. Generally speaking, the experimental fares above referred to on the

southern and western carriers were not disturbed by the prescribed basis, and those fares continue in effect. Our action in this respect has brought about greater uniformity in the passenger fares throughout the country, the basic fares on Pullman traffic now being the same in all districts, and on coach traffic the same in the East and West but 0.5 cent per passenger-mile lower in the South.

The traffic and revenue results from the reduced fares thus far have been gratifying. During the first 3 months, June to August, inclusive, under the reduced fares in the eastern district the percentage increase over the same period of 1935 has been 31.8 in number of passengers carried, 16.2 in gross passenger revenue, and 37.6 in passenger-miles.

RAILWAY PASSES

By order of November 13, 1935, we required the large railways and the Pullman Co. to make quarterly reports during the year 1936 concerning the number of free passes and free tickets issued, and we have published a summary of the returns for the first quarter, which probably will be found to cover over nine-tenths of the entire year's issue. The summary shows that 2,218,261 annual or term passes, and 856,325 trip passes were issued for use in 1936, or a total of 3,074,586, of which 95.7 percent were issued to carrier employees or their families. Per $1,000 of operating revenues, some railways issued twice as many passes as others. Carriers interchange passes with each other. The issuing carrier's employees, families, and dependents received 2,070,827, and those of other carriers 871,267. Livestock caretakers received 22,431 passes; contractors, 14,164; employees of Federal, State, and municipal governments, 15,501; the clergy, educators, etc., 24,779; and directors, local counsel, local surgeons, and all others, 55,617. The total for all persons other than the issuing carrier's own employees, families, and dependents, aggregated more than a million passes. Inasmuch as the information was not kept by the carriers, it was not practicable to ascertain or report the value of the transportation represented by such passes in the aggregate. It seemed to us appropriate to investigate further the cost to the carrier of granting free transportation to other than the issuing carrier's own employees and by order of September 29, 1936, we have required the class I railways for the year 1937 to report the number of persons carried on such passes and what the value of such free service would be at the average fare per mile paid by revenue passengers.

COOPERATION OF FEDERAL AND STATE COMMISSIONS

Since our last report we have cooperated with State commissions in seven proceedings involving interstate-intrastate rate relations. Of these, five were complaints filed with us in respect of rates in

effect, one was an investigation and suspension proceeding arising out of orders issued by us and by State commissions suspending the effective dates of rates proposed by carriers, and one was in connection with an application by carriers seeking relief from the long-and-short-haul provision of section 4 of the Interstate Commerce Act. In these cases we had the cooperation of six different State commissions. We received cooperation from the State commissions in the further hearings held in *Ex Parte No. 115, Increases in Freight Rates and Charges, 1934*, and in Docket No. 26550, *Passenger Fares and Surcharges*, elsewhere referred to in this report. We have also received cooperation from State commissions in 15 cases involving the acquisition of railroad properties, the construction of new and the abandonment of old railroad lines. Cooperation with State commissions under the provisions of part II, the Motor Carrier Act, 1935, is treated separately in the chapter relating to the bureau of motor carriers.

FEDERAL COORDINATOR OF TRANSPORTATION

The provisions of title I of the Emergency Railroad Transportation Act, 1933, which were extended by Joint Resolution (74th Cong., 1st sess.) until June 17, 1936, were not further extended beyond that date, so that the office of Federal Coordinator of Transportation, which had been held under that act by Commissioner Eastman, then ceased to exist and he resumed full duties as a member of the Commission.

On January 21, 1936, we transmitted to the President and to Congress, in accordance with the provisions of section 13 of title I of the Emergency Act, a report of the Coordinator containing recommendations for transportation legislation, which was afterward published as House Document No. 394, Seventy-fourth Congress, second session. This report recommended (1) a bill for the regulation of water carriers by the Commission; (2) a similar bill for the regulation of so-called wharfingers; (3) in the event that recommendation (1) was followed, a bill for the reorganization of the Commission; (4) a bill for the creation of a Coordinator of Transportation to be associated with the Commission; (5) a bill providing for dismissal compensation for railroad employees displaced by coordination projects; (6) three bills proposing minor amendments of part I of the Interstate Commerce Act.

We were able to approve unanimously the bills providing for Federal regulation of water carriers and wharfingers. We were unable to approve the bill for the reorganization of the Commission. We did not approve or disapprove the bill providing for a Coordinator of Transportation, believing Congress to be well advised

on this point. Pointing out that the bill providing for dismissal compensation for railroad employees related to a subject not within the scope of any functions which Congress has hitherto imposed on us, we recommended that it be given consideration in connection with the recommendation in our last annual report:

> That further statutory provisions be enacted to protect employees from undue financial loss as a consequence of authorized railway abandonments or unification found to be in the interest of the general public, or otherwise lawfully effected.

We approved unanimously the bill to enable us to prescribe minimum as well as maximum joint rail-water rates and to establish through routes where deemed necessary in the public interest regardless of the "short-hauling" of any carrier. We also approved the bill to amend section 4 of part I, Interstate Commerce Act, by eliminating the so-called equidistant clause. While in previous reports we had approved the bill to shorten the statutory periods of limitation with respect to claims against the railroads, we stated that some of the Commissioners had come to doubt the wisdom or justice of such legislation, and that we would give the matter further consideration and bring forward an appropriate recommendation, if the results of our investigations should indicate a change to be desirable.

Two Commissioners did not concur in any amendment relating to the fourth section. One approved the Coordinator's recommendations nos. 3 and 4, and another approved no. 4 as made and no. 3 with one minor change. The reasons for our conclusions were fully stated in our letter of transmittal, which was made a part of House Document No. 394.

On March 26, 1936, we transmitted to the President and Congress a further report of the Coordinator on Unemployment Compensation for Transportation Employees containing the text of a proposed unemployment compensation act which the Coordinator recommended be enacted. While we agreed that any system of unemployment compensation for persons engaged in interstate transportation should be set up and administered by the Federal Government rather than by the States, and that it was no doubt highly desirable that early consideration be given to bringing the present system as to such persons under one authority and to putting it on a uniform basis, the subject mattter of the proposed bill did not come within the scope of any functions which Congress had hitherto entrusted to us. Therefore, we did not have in our records information upon which we could intelligently base recommendations. Because of the importance and scope of the subject we did not feel that we should attempt to submit definite recommendations without wide and careful study, including public hearings. Because such an investigation would result in undue delay in transmitting a report, we transmitted it

without recommendations. No legislation resulted at the last session of Congress from the Coordinator's or our own recommendations.

REORGANIZATION OF RAILROAD COMPANIES

In our latest report we pointed out the comprehensive revision of section 77 of the Bankruptcy Act embraced in the act of August 27, 1935. Subsequently, by act approved June 26, 1936, the section was further amended to clarify the intent with reference to the rights of the United States as a creditor or stockholder. It is now expressly provided that where the United States or any agency thereof, or any corporation, other than the Reconstruction Finance Corporation, the majority of the stock of which is owned by the United States, is a creditor or stockholder, the interest or claims thereof shall be deemed to be affected by the plan; but that, where the United States is a creditor on claims for taxes or customs duties, no plan which does not provide for the payment thereof shall be confirmed if rejected within 90 days by the United States.

A list of the railroad reorganization proceedings now in progress and the operated mileage involved, both under section 77 and under equity receivership, is shown in appendix G.

SINKING FUNDS AND OTHER RESERVE FUNDS

Our discussion of these subjects will be confined to steam railroads. A list of the companies in receivership and of those seeking reorganization under section 77 of the Bankruptcy Act as amended is shown in appendix G. The operated mileage involved is 70,041 miles, or approximately 27.7 percent of the total operated mileage in the United States. Failure of most of these companies was due principally to loss of traffic to competing instrumentalities of transportation, both private and public, and to decline of traffic because of the general business depression. Poor financial structures and unwise surplus and dividend policies were chiefly responsible for the failure of some of these companies, and were contributing factors in the failure of most of them.

Many of the railroad companies now in trouble have been handicapped from the beginning of their corporate existence by financial structures overloaded with funded debt. When the depression came, these had failed to improve their financial structures, and others had weakened their financial structures, by pursuing a policy of providing for their financial requirements largely through the issue of long-term bonds which at maturity are refunded. Some of these companies were compelled, because of small earnings and the low market price of their stock, to finance all improvements and additions and betterments through the issue of bonds. On the other

hand, some of these companies had sufficient earnings to finance their needs in part through the issue of stock, and did issue some stock, but made no attempt to reduce the amount of their interest-bearing obligations or to build up either liquid or invested surplus out of earnings. Unwise surplus and dividend policies, the depletion of cash reserve incident to buying into other properties, and the paying of dividends in an attempt to sustain credit or build up a market for stock was responsible in no small degree for the failure of some of the companies.

Many railroad companies have sound financial structures. Some were able during the period preceding the depression to do a part of their financing through the issue of stock. Others had been able to retire a part of their funded indebtedness or to convert it into stock. Still others had used large amounts of their earnings in making improvements and additions and betterments. The extent to which this was done is evidenced by figures contained in the annual reports of the carriers showing that while investment in all steam railroads in the United States, except proprietary companies, in road and equipment increased $5,355,510,086 during the period 1920 to 1929, inclusive, and investment of proprietary companies in road and equipment during a part of this period, namely, 1926 to 1929, inclusive (the figures for the entire period not being available), increased $557,545,742, or a total of $5,913,055,828, the capitalization of these railroads increasing only $2,944,041,168 during the entire period, indicating that approximately $3,000,000,000, or an average of approximately $300,000,000 a year, was spent out of earnings and surplus by the railroads in making improvements and additions and betterments during the period.

The policy mentioned above of providing for financial requirements largely through the issue of long-term bonds with no plan for their retirement, a policy that has been general with railroad companies, was discussed in our report for 1933, and the remedy there suggested, namely, the provision of sinking funds to be set up by the railway companies out of net income for the purpose of retiring a part of their funded debt before maturity, either voluntarily or as a condition to our authorization of further bond issues, is being applied. In all cases where we have been called upon to approve the actual issue of bonds we have insisted that the applicant make provision for the retirement of all or a part of the bonds before maturity and have required that sinking funds be provided, unless good and sufficient reasons appeared for not doing so.

Practically all railway companies that have filed plans for the reorganization of their properties under the provisions of section 77 of the Bankruptcy Act have included provisions for sinking funds to be set up out of earnings and many of them have also included

provisions for setting up funds out of earnings for additions and betterments. Of the 18 plans of reorganization filed in 16 separate proceedings to date, 17 contain provisions for sinking funds, and 8 contain provisions for additions and betterments. For illustration, the plan of the Chicago & Eastern Illinois Railway Co. provides for setting up out of income, if earned, four sinking funds requiring a maximum annual appropriation of $720,160, and an additions-and-betterments fund requiring a maximum annual expenditure or appropriation of $500,000; and the plan of the Chicago & North Western Railway Co. provides for sinking funds requiring the appropriation of $1,000,000 a year for 10 years out of income, the funds to be used for the retirement of bond issues.

Recently our attention has been called to certain provisions of the Revenue Act of 1936, namely, those imposing a surtax on undistributed profits, and to the effect that these provisions will have upon sinking funds and additions-and-betterments funds to be set up out of income. For illustration, it has been represented to us that a sinking-fund payment of $35,000 a year required in connection with the issue of certain bonds of the Chicago Union Station Co. authorized by our order of August 26, 1936, in Finance Docket No. 11302, will necessitate the payment of a tax of approximately 21 percent on the amount reserved, which would be avoided if the company distributed as a dividend the amount required to be reserved; and that to provide a sinking fund of $1,000,000 a year, as contemplated in the plan of the Chicago & North Western Railway Co. would, if there were no "dividends received" credit or other allowable deductions, require a net income of approximately $1,478,470, of which about $257,860 would be required for surtax, which would be avoided if the sinking fund were not required and the net income remaining after the payment of normal taxes, in this case about $220,610, were distributed as a dividend.

The Revenue Act exempts from the surtax amounts paid out or reserved for retiring funded debt, or withheld from stockholders, under written contracts of a certain kind executed prior to May 1, 1936. The exemptions do not apply in such cases if the contract was entered into subsequent to April 30, 1936. This means that the amounts used or irrevocably set aside under contracts entered into after the date last mentioned will be subject to the surtax and that companies that do not so use their income or set up such funds but distribute all their net income will not be subject to the tax. This also means that those companies which have weak financial structures and should use their income to improve their property, retire funded debt, and build up a liquid surplus against a day of future trouble will, if they undertake to do so, be subject to a penalty, whereas railroad companies with strong financial structures, and

able to finance their requirements through the issue of stock, may distribute all their income and thus escape the surtax.

It is our view that railroads with weak financial structures, and those just emerging from receivership or reorganization proceedings under section 77 of the Bankruptcy Act, should be encouraged to use their earnings, to the extent authorized or approved by us, to build up and improve their property, retire their funded debt, and create corporate surpluses in amounts sufficient to meet their emergency needs, support their borrowing powers, and afford insurance against obsolescence. We suggest that the situation of the steam railroads under the Revenue Act of 1936 should have the further consideration of the Congress.

ABANDONED MILEAGE

In our 1934 report considerable detail was given at pages 20 and 21 with respect to abandoned mileage from the effective date of section 1(18) of the Interstate Commerce Act, May 29, 1920, to October 31, 1934. At pages 23 and 24 of our latest report corresponding data are given for the year ended October 31, 1935.

During the year ended October 31, 1936, 125 applications were filed for permission to abandon 1,896.893 miles of railroad lines or the operation thereof. The Commission granted 116 applications, of which 30 were contested and 86 uncontested cases, involving 560.549 miles of main line and 781.933 miles of branch line, of class I carriers, together with 560.514 miles of so-called "short lines", of which 363.70 miles constituted the entire lines of the applicants and 196.814 miles portions of such lines. Information is not available as to the total number of miles which were actually abandoned under the permissions granted. In proceedings in which certificates were issued, covering 1,480.552 miles of road, the estimate of average annual losses from continued operation or of future annual savings resulting from abandonment amounted to $1,162,454. In proceedings covering the remaining 340.302 miles, estimates of losses or savings are not given. The figures for annual losses are based largely on the results of operation in recent years. Mileage and possible losses or savings in trackage-rights abandonments are not included.

It has been shown in certain cases that the necessary cost of rehabilitation or of bringing up deferred maintenance of tracks which were permitted to be abandoned, aggregating about 770 miles, would require an expenditure estimated at $3,033,264. Since this amount would necessarily be expended in order to continue operation, abandonment would result in a saving which to that extent can, with considerable accuracy, be estimated in advance.

Probably the least important item in saving resulting from abandonment is the salvage realized. This is seldom emphasized because the value cannot be ascertained until dismantlement has taken place and the disposition of the salvaged material has been made.

The reasons generally advanced to warrant abandonment were insufficient traffic, resulting from various causes, including failure of expected traffic to develop, exhaustion of sources of traffic from forests and mines, and losses of traffic to competing lines of railroad, or other forms of transportation. In a few cases operation of lines had been discontinued before applications for permission to abandon were presented, and, in some applications were granted only in part.

The actual monetary savings resulting from abandonment of mileage is generally an indeterminate amount, and while we are satisfied that the abandonments permitted were in the interest of economy, the saving cannot be stated in exact figures. In nearly all cases abandonment results in the loss of traffic, but in many cases some portion of the traffic formerly handled on the lines proposed to be abandoned will continue to reach the applicants' railroads by highway.

RAILWAY INVESTMENT IN MOTOR CARRIERS

During the year we inquired of the railways as to the extent to which they had become financially interested in highway motor vehicle enterprises. The returns show that on May 1, 1936, class I steam railways had an interest in 128 motor carriers, the balance sheet of which at the close of 1935 showed total assets of $89,508,108. The Railway Express Agency, Inc., and the Southeastern Express Co. are not included in this total. It also omits some companies in which the control by the railways is extremely indirect. In slightly more than one-half of the 128 highway carriers reported the interest of the railway is indirect through an intermediary.

Some of the motor carriers are engaged in both bus and truck operations, but when they are classified according to the predominant service, bus companies held $73,759,263, or over four-fifths of the total assets reported, the trucking companies, $14,050,961, and the remainder, $1,697,884, was unclassified. The investment in plant and equipment included in these assets was $59,231,728, with an accrued depreciation of $23,762,239. These figures are small compared with the assets of over $30,000,000,000 on the balance sheets of class I steam railways and their lessors, or even with the railway investment in equipment only of over $5,000,000,000, with accrued depreciation of 2.7 billions.

The 128 highway companies handled in the calendar year 1935, 2,619,786 tons of freight in line-haul operations and 1,973,513 in local

drayage operations. They carried 107,727,485 passengers in line-haul operations.

During the year 1935 the class I steam railways received from these 128 companies $4,983,778 as dividends, interest, rents, or repayment of advances, and they paid out on account of such companies $6,982,-610, being the sum of payments for pick-up and delivery service, line-haul service, advances, or new investment.

RAILROAD CREDIT CORPORATION

The liquidation of the Railroad Credit Corporation, referred to in our last report, has proceeded during the year. Of the original emergency revenue $48,536,868, or 66 percent, has been returned to carriers participating in the plan. The balance remaining in the fund on October 31, 1936, was $24,984,623.

ELECTRIC RAILWAY CASES

In our last annual report, under the heading "Electric Railway Cases", we called attention to duties imposed upon us by the Railway Labor Act, as amended June 21, 1934, and by the Railroad Retirement Act and the Railroad Retirement Tax Act, approved August 29, 1935, by a proviso which is the same in substance in each of the acts mentioned. The language of the proviso, as it appears in the Railway Labor Act, is as follows:

"*Provided, however,* That the term 'carrier' shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Mediation Board or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso."

When action by us is called for in connection with the Railroad Retirement Act, the request mentioned in the proviso is to be made by the Railroad Retirement Board, and, when such action is in connection with the Railroad Retirement Tax Act, the request is to be made by the Commissioner of Internal Revenue.

Pursuant to request made by the National Mediation Board, we had instituted 15 proceedings to determine the status of particular electric railways under the proviso as included in the Labor Act; and in 5 of those cases we had determined that the electric railway involved was not within the exemption contained in the proviso. A similar conclusion has since been reached by us in 9 of the other 10 cases mentioned. During the present year no new proceeding has been instituted under the Labor Act proviso.

By complaint filed February 29, 1936, we are requested to determine whether the Indiana Railroad, which alleges that it operates six interurban electric railroads, one suburban electric railroad, three electric street-railway systems, two city bus systems and one bus line, is covered by the exemptions of the Railroad Retirement Act and in the Railroad Retirement Tax Act. There has been no hearing in connection with this proceeding.

During the year suits have been instituted in court to avoid findings made by us, under the provisos, as follows:

On May 3, 1936, the Texas Electric Railway Co. instituted two suits in the United States District Court for the Northern District of Texas, one to obtain a finding that the plaintiff is an interurban electric railway within the meaning of the proviso in the Railway Labor Act, and the other, a finding that the plaintiff is an interurban electric railway within the meaning of the proviso in the Railroad Retirement Tax Act. On June 4, 1936, after hearing, the court issued an interlocutory injunction in each suit for the purpose of holding matters in statu quo, pending final determination, which has not yet been had.

On June 22, 1936, the Chicago South Shore & South Bend Railroad and its trustees filed a suit in the United States District Court for the Northern District of Indiana to obtain a finding for the purpose of avoiding the effect of a finding by us that the railroad is not covered by the exemption in the proviso mentioned, as it appears in the Railway Labor Act. No hearing in the suit has been held.

On June 4 and 5, 1936, two suits were filed in the United States District Court for the Northern District of Illinois, Eastern Division, one by the Chicago Warehouse & Terminal Co. and the other by the Chicago Tunnel Co., for the purpose of obtaining findings that the plaintiffs are not subject to the provisions of the Railway Labor Act. There has been no hearing in either of these two cases.

On June 24, 1936, the Utah-Idaho Central Railroad Co. instituted a suit in the United States District Court for the Northern District of Utah, for the purpose of obtaining a finding that the plaintiff is an electric interurban railroad within the meaning of the exemption contained in the Railway Labor Act proviso, and, on October 15, 1936, after hearing, a final decree to that effect was ordered by the court.

On September 3, 1936, Clinton L. Bardo, the trustee of the New York, Westchester & Boston Railway Co., instituted a suit in the United States District Court for the Southern District of New York to obtain findings that the carrier mentioned is an electric interurban railroad and not subject to the provisions of the Railway Labor Act.

In the early part of September 1936 the Hudson & Manhattan Railway Co. instituted three suits in court, one in the United States District Court for the Southern District of New York, another in

the United States District Court for the District of New Jersey, and the third in the United States District Court for the District of Columbia, for the purpose of obtaining findings that the carrier mentioned is an electric interurban railroad and not subject to the provisions of the Railway Labor Act.

The seven suits last above mentioned were instituted under the Declaratory Judgments Act of June 14, 1934.

In each case we intervene as a party defendant, after obtaining permission from the court, for the purpose of defending the findings made by us.

INVESTIGATIONS

Reports have been made and published in the following investigations instituted on our own motion:

Practices of carriers by railroad subject to the Interstate Commerce Act affecting operating revenues or expenses Ex Parte 104, (213 I. C. C. 583; 214 I. C. C. 53, 89; 215 I. C. C. 173, 431, 623, 626, 373, 534, 653, 656; 216 I. C. C. 8, 13; 216 I. C. C. 291).

Switching rates in the Chicago switching district (213 I. C. C. 57; 215 I. C. C. 45; 216 I. C. C. 502).

Increases in Freight Rates and Charges Ex Parte 115 (215 I. C. C. 439).

Classes of depreciable property and the related percentages of depreciation which, under section 20 of the Interstate Commerce Act, we are required to prescribe for carriers subject to the act (1) of sleeping-car companies (215 I. C. C. 597) and (2) of express companies (215 I. C. C. 629).

Refrigeration charges on fruits, vegetables, berries, and melons from the West (215 I. C. C. 684).

Eastern Brick cases, concerning the all-rail interstate rates and the charges resulting therefrom on the articles included in the uniform brick list, on common brick, and the definition of common brick, prescribed in *National Paving Brick Mfrs. Assn.* v. *A. & V. Ry. Co.*, supra, within official classification territory defined in *Increased Rates, 1920* (58 I. C. C. 220, 225), as the eastern group, and in addition all of Illinois, west-bank upper Mississippi River crossings in Missouri and Iowa, the St. Louis brick-producing district, and west-bank Lake Michigan ports in Wisconsin and Michigan (218 I. C. C. 59).

Passenger Fares and Surcharges (214 I. C. C. 174; 215 I. C. C. 350, 673).

Concerning the lawfulness of the rules, charges, and practices governing the compression, consolidation, and concentration of cotton at points on the lines of the Fort Worth & Denver City Railway Co. and the Wichita Valley Railway Co., as published in excep-

tion 2 of item 280, page 25, and exception 3 of item 320, page 28, of *Agent H. B. Cummins' Tariff I. C. C. 382* (216 I. C. C. 17; 216 I. C. C. 567).

To determine whether the rates on zinc dross, ashes, skimmings, and residue, in carloads, required by the Public Service Commission of Pennsylvania to be maintained by said petitioners from origin territory known as the Pittsburgh, Pa., rate group to the destination territory known as the Philadelphia, Pa., rate group, cause or will cause any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce; and also to determine what rates and charges, if any, or what maximum or minimum or maximum and minimum shall be prescribed to be charged by petitioners in order to remove such advantage, preference, prejudice, or discrimination, if any, as may be found to exist (216 I. C. C. 199).

Into and concerning the present schedules of the Pennsylvania Railroad Co., the Erie Railroad Co., the Boston & Maine Railroad Co., and all other carriers operating in, or serving points on the border of, official territory, insofar as said schedules now provide for pick-up and delivery of interstate shipments of freight at points in official territory; provided, however, that such pick-up and delivery service, herein embraced, at the said border points shall be restricted to that performed in connection with shipments from or to points in official territory, for the purpose of determining whether the said provisions of such schedules and the rules and regulations in connection therewith are in any respect unlawful under the Interstate Commerce Act, and to make such findings and order, or orders, as may be deemed proper in the premises (218 I. C. C. 441).

Other investigations are pending, some of the more important of which are—

Practices of carriers by railroad subject to the Interstate Commerce Act affecting operating revenues or expenses. *Ex Parte 104.*

Rules for car-hire settlement.

Western-Southern Class Rates, concerning the class rates applicable on interstate commerce, all rail, including the charges resulting therefrom between points in western trunk-line and southern territories.

Reduced Pipe Line Rates and Gathering Charges.

Concerning the reasonableness and lawfulness otherwise of existing through routes and joint rates, rules, regulations, and practices for application by common carriers by railroad and by common carriers by water operating upon the Mississippi and Warrior Rivers and their tributaries; the reasonableness of existing minimum differentials between all-rail rates and corresponding rail-barge, barge-rail,

and rail-barge-rail rates; the necessity, if any, for the establishment by the aforesaid common carriers by railroad and by water of additional through routes and joint rates, rules, regulations, and practices; and for the fixing of reasonable minimum differentials, if any, between the corresponding all-rail rates and any such additional through routes and joint rates.

In the matter of divisions of joint interterritorial rates between official and southern territories.

Lawfulness of all rates, charges, rules, regulations, and practices of carriers by railroad applicable to the carload movement of bituminous coal in interstate commerce to ports on Lake Erie, Lake Ontario, and the St. Lawrence River for transshipment by water from said ports to Port Huron, Mich., and points below, to and including Brockville, Ontario; except that the following issues are excluded:

(*a*) The relation of the rates from the various producing fields or mines one to another;

(*b*) Charges for dumping and similar services at the ports.

Into and concerning the history, management, financial and other operations, accounts, expenditures of carrier funds in other than its common-carrier operations, and practices of the New York, New Haven & Hartford Railroad Co. in order to determine the manner and method in which the business of said company has been conducted with a view to the making of a report and such order or orders as may be appropriate upon the record.

Into and concerning the lawfulness of the rates, charges, rules, regulations, and practices, as published in *Chicago & Illinois Midland Railway Company I. C. C. No. B–254*, *Illinois Central Railroad Company*, *The Yazoo and Mississippi Valley Railroad Co. I. C. C. No. 8057*, *The Alton Railroad Company*, *I. C. C. No. 119*, *Chicago, Burlington & Quincy Railroad Company*, *I. C. C. No. 18576*, with a view to determining whether said rates, charges, rules, regulations, and practices are in violation of any provision of the Interstate Commerce Act, and with a view to making such order, or orders, or taking such other action in the premises as may be warranted by the record.

Into and concerning any and all charges (other than line-haul rates), rules, regulations, practices, and services of common carriers by railroad in connection with the handling of coal for lake shipment, for the purpose of determining whether any of such charges, rules, regulations, or practices are or will be unreasonable, unjustly discriminatory, unduly prejudicial or preferential, or otherwise in violation of any of the provisions of the Interstate Commerce Act; and, if so, what charges, or maximum or minimum charges, and what rules, regulations, or practices shall be prescribed to be charged

or observed in order to remove such unlawfulness as may be found to exist.

Into and concerning the rates, charges, rules, regulations, and practices of common carriers by railroad, affecting and incident to the transportation of freight in consolidated carloads moving at carload rates, having particular reference to the relationship between railroads and carloading or freight forwarding companies.

To determine whether and to what extent, if any, the rates and charges of carriers by railroad, or by railroad and water, applicable to the transportation of export and import traffic from and to central territory to and from United States ports on the Atlantic and Gulf coasts and the Canadian ports of Montreal, Quebec, Saint John, New Brunswick, and Halifax, Nova Scotia, Canada, are unduly prejudicial to any of said United States ports, to traffic moving through said ports, to persons interested in the movement of traffic through said ports, or to carriers serving said ports or participating in the movement of traffic through said ports, and unduly preferential of either of the said Canadian ports, of traffic moving through said Canadian ports, of persons interested in the movement of traffic through said Canadian ports, or of carriers participating in the movement of traffic through said Canadian ports, and what, if any, revision of such rates may and should be required by order or orders of the Commission under the provisions of the Interstate Commerce Act to remove the undue prejudice and preference, if any, found to exist.

Into and concerning the question of reasonable and otherwise lawful rates for application to the transportation of wrought-iron and wrought-steel pipe and fittings and related articles, in straight and mixed carloads, between the points embraced in No. 13535 et al., for the purpose of making such findings and entering such order or orders as the facts found to exist shall appear to require, said several articles being as follows:

Pipe, steel, or wrought iron, welded or seamless.
Pipe, plate, or sheet.
Pipe, riveted, steel, or wrought iron.
Pipe connections, couplings, and fittings, iron or steel, not plated, or iron or steel body, not plated.
Meter, stopcock, and valve boxes, cast iron.
Connecting bolts and nuts, washers, packing or wedges in barrels, boxes, kegs, or burlap bags, in mixed carloads with cast-iron pipe and/or fittings.
Iron-body well-pipe screens or strainers.
Valves, iron or iron body.

Into and concerning the practices of the Pittsburgh, Lisbon & Western Railroad Co., the Youngstown & Suburban Railway Co., Montour Railroad Co., and the Pittsburgh Coal Co. to determine whether the rates, rules, regulations, practices, and matters complained of, or any of them, are unlawful in violation of the Interstate Commerce Act, and to determine what rates, or what maximum or minimum, or maximum and minimum rates shall be prescribed, or what rules, regulations, or practices shall be prescribed, or what orders shall be entered, to remove any unlawfulness found to exist.

Concerning rates, charges, rules, regulations, and practices of common carriers by railroad and common carriers by motor vehicle and the minimum charges, rules, regulations, and practices of contract carriers by motor vehicle, with respect to the transportation of petroleum and petroleum products in interstate commerce in carloads and truckloads, from origins in California to destinations in Arizona.

Concerning rates, charges, rules, regulations, and practices of common carriers by railroad and common carriers by motor vehicle and the minimum charges, rules, regulations, and practices of contract carriers by motor vehicle, with respect to the transportation of naval stores in interstate commerce in carloads and truckloads, from Columbia and Hattiesburg, Miss., to Gulfport, Miss.; from Laurel, Miss., to Mobile, Ala.; and from Columbia, Miss., to New Orleans, La.

INTRASTATE RATE CASES

Reports have been made and published in the following proceedings instituted by us under section 13 of the act:

Rates on sand, gravel, crushed stone, and chert within the State of South Carolina (211 I. C. C. 647, 214 I. C. C. 533, 214 I. C. C. 657, 218 I. C. C. 143).

Emergency Freight Charges in Minnesota (214 I. C. C. 129, 215 I. C. C. 314, 215 I. C. C. 425, 216 I. C. C. 101, 216 I. C. C. 605).

Georgia Passenger Fares (214 I. C. C. 567).

Emergency Freight Charges Within the States of Georgia, Oklahoma, Kansas, Tennessee, Arkansas, Louisiana, Idaho, Utah, and Montana (213 I. C. C. 515, 215 I. C. C. 485, 215 I. C. C. 677, 216 I. C. C. 197, 216 I. C. C. 217, 211 I. C. C. 23, 211 I. C. C. 225, 215 I. C. C. 229, 211 I. C. C. 219, 211 I. C. C. 499, 213 I. C. C. 130, 213 I. C. C. 249, 214 I. C. C. 537).

Georgia Fertilizer and Materials Rates (213 I. C. C. 563).

The following investigations under section 13 of the act are pending:

To determine whether the rates on classes, petroleum and its products, coke, iron and steel articles, cement, scrap iron, and clay and shale products, and specific coal rates, as set forth in the orders of

the Kentucky Railroad Commission of November 13, 1935, cause or will cause any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce.

Emergency Freight Charges Within North Carolina.

FREIGHT FORWARDING INVESTIGATION

By an order dated April 6, 1936, in Docket No. 27365, *Freight Forwarding Investigation*, we instituted an investigation of the practices of class I railroads in connection with the handling of freight in consolidated carloads by companies, commonly referred to as freight forwarders, which are engaged in the business of consolidating into carload lots for shipment over the railroads freight which otherwise would be tendered to the carriers for transportation in less-than-carload quantities. Such consolidated shipments are transported for the forwarder both as consignor and consignee, and at destination the contents thereof are distributed by the forwarder to the parties for whom intended. The saving effected by securing the application of the carload rate, rather than the higher less-than-carload rates which those owners otherwise would be required to pay for the transportation of their goods, is divided between the forwarder and its customers in agreed proportions. While the forwarder's charges customarily are made known to the public by printed circulars or schedules, deviations therefrom have occurred.

Our order in this case, by its own terms, called for an inquiry into (1) the relationship, direct or indirect, between the respondents or their officials and carloading or freight-forwarding companies; (2) tariff provisions, rates, charges, rules, and regulations of respondents affecting transportation and incidental services in connection with the traffic of freight-forwarding companies; (3) operating practices of respondents in connection with such traffic; (4) accessorial and terminal services performed by respondents in connection with such traffic; (5) tonnage and revenue statistics with respect to such traffic; (6) use of railroad facilities, including land, buildings, and other property by freight forwarding companies; and (7) all other information germane to the subject matter of the investigation; all with a view of determining whether the rates, charges, rules, regulations, and practices of respondents are inconsistent with honest, economical, and efficient management or are unjust, unreasonable, or are in any respect in violation of law.

It is expected that when these proceedings have been concluded we shall have before us a sufficient volume of evidence to enable us to determine whether or not the railroads, through the arrangements and

practices covered by our order of investigation, have complied with the law and have conducted their operations in an honest, efficient, and economical manner.

In our annual report for 1930 we advised Congress of the results of an informal investigation conducted during that year into the operations and practices of forwarding companies. At that time we pointed out certain practices which appeared to us to be contrary to the public interest and recommended that freight-forwarding companies be brought under our jurisdiction. This recommendation was renewed in our annual report for 1931.

ADMISSIONS TO PRACTICE

During the year ended October 15, 1936, 1,084 persons were admitted to practice before the Commission. Of this number 887 were members of the bar of the Supreme Court of the United States or the highest court of some State and 197 were admitted upon a showing of their qualifications. A total of 7,569 persons have been admitted since the register of practitioners was established September 1, 1929, of which number 4,010 were admitted upon a showing of membership of the bar and 3,559 were nonlawyers found to be otherwise qualified. As shown by our previous reports, for each year beginning with 1931 the qualified applicants who are lawyers have considerably outnumbered the laymen admitted upon a showing of their technical and legal qualifications under paragraph (*b*) of rule I–B of the Rules of Practice, the proportion being roughly seven lawyers to three nonlawyers.

In cooperation with the Association of Practitioners before the Commission, the qualification of each individual applicant has been subjected to independent investigation by subcommittees of that association. Arrangements have now been made through that association to create standing committees of practitioners in the leading centers of population who will personally investigate the qualifications of applicants and make recommendations thereon.

NONHOLDING COMPANIES

We are frequently prevented from obtaining complete information concerning the control of transportation agencies by the fact that on behalf of some corporations closely allied with carriers subject to our jurisdiction the position is taken that they are not within the provisions of the act we administer and hence they are not required to file annual reports or to subject their records to inspection, or, even, to keep truthful records of their accounts. Among such corporations are the various fruit express companies and other private car lines, certain forwarding companies, and a variety of hold-

ing companies which control enterprises engaged in interstate transportation or control companies patronizing or doing business with such corporations. The position so taken is bottomed upon the decision of the Supreme Court on May 13, 1929, in *United States* v. *Fruit Growers Express Co.* (279 U. S. 363). That decision and its effects are summarized in our report for 1929, at pages 14 to 16, inclusive.

In addition to the matters stated by us in our previous report we have reason to believe that some railroads subject to our jurisdiction evade the intent of the commodities clause, section 1 (8) of the act, by having subsidiaries not subject to the act serve as vehicles for carrier investments.

We recommend that Congress, in the light of facts already made available in our reports and in reports of investigations conducted by congressional committees, shall determine the appropriate limit of our jurisdiction in such cases and whether further legislation to extend that jurisdiction is necessary.

MINIMUM RAIL-WATER RATES

In our last annual report we called attention to the fact that section 15 (1) has the effect of exempting from our control minimum rates in the case of a through route where one of the carriers is a water line. We recommend that the act be amended to include the power to regulate minimum rates of water carriers otherwise within our jurisdiction. For the reasons there stated we renew that recommendation.

SCOPE OF JURISDICTION OVER AIR CARRIERS

In the part of this report dealing with the Bureau of Air Mail reference is made to our special report to the Congress pursuant to the provisions of section 6 (e) of the Air Mail Act of 1934 as amended by the act of August 14, 1935.

In the outline of controlling provisions of law and of our views as to important principles involved in their application, which preceded our findings in that report, we called attention to certain situations needing correction.

Divided authority over air-mail compensation.—In the chapter dealing with weight credit schedules we showed that prior to our initial investigation into the general rate structure part of the contract air-mail service had been operated without payments for the mileage flown under an informal arrangement whereby, in lieu of such payments, the weights of mail so flown were credited to certain mail-pay schedules without increasing the compensation to the carriers unless the monthly average weight of mail over their routes thereby exceeded the weight specified in their contracts and the act and then

only at a fraction of the base rate named in the contracts. We also showed that the rates of compensation prescribed by us were applicable to all airplane-miles flown with mail on the theory that the act contemplated that whatever rate was found by us to be fair and reasonable for any carrier should apply alike to all mail service rendered under its contract. We further pointed out that by the amendments of August 14, 1935, a provision was added to section 3 (f) specifically authorizing this free or reduced-rate service in the discretion of the Postmaster General, which had been barred by our decision. It is apparent that rates prescribed by us could not insure fair and reasonable compensation to the carriers when applied in conjunction with a system of free service and negotiated rates exclusively under the control and authorization of another agency of the Government burdened with the cost of the service. The amendment creates divided authority over the compensation to be paid for the transportation of air mail.

The system of accounts.—Under the caption "The system of accounts", we discussed the amendment to section 10 which now requires that the system of accounts for air-mail carriers be promulgated by the Postmaster General. The original act, prior to the amendments, gave us equal powers with the Postmaster General in respect of the keeping, examining, and auditing of the carriers' books, records, and accounts. By still other provisions of the original act, very materially broadened by the amendments, we are directed to make an exhaustive examination and audit of the accounts of the carriers to scrutinize carefully their purchases and rents, and to investigate the relation of their stockholders and employees to their vendors. A situation is now presented where one agency of the Government is required to police the carriers' accounts and business transactions recorded under rules and regulations prescribed by another. This division of responsibility should be resolved by the Congress.

Postal revenue limitation on rates.—Under the caption "Postal revenue limitation", we discussed the provision of the original act requiring that rates fixed and established by us for all routes shall be designed to keep the aggregate cost of the transportation of air mail, on and after July 1, 1938, within the limits of the anticipated postal revenue therefrom. For reasons stated in the report it is quite apparent that, unless a phenomenal increase occurs in the revenue from air-mail postage by 1938, compensation measured by rates confined to such revenue would not enable the carriers to operate the present class of mail service, if it would permit them to operate at all.

Control over rates from nonmail services.—We wish to call attention to the fact that while in the determination of air-mail rates we are directed to take into consideration revenues and profits from all sources, control over the rates, fares, charges, and practices of the carriers for the transportation of persons and property, other than mail, is withheld from our jurisdiction.

Control over new service.—While under the provisions of amended section 15 we are given limited jurisdiction over the establishment of new service by air-mail carriers, that jurisdiction does not extend to any carrier which does not hold a mail contract, such carriers not being subject to the air-mail acts. While practically all scheduled air-transport operators carry mail, a situation might suddenly arise where the inauguration of unregulated nonmail services over or in connection with the Federal airways would adversely affect the operations and earnings of the air-mail carriers, which could not be prevented except by regulation of all interstate air carriers. Removal of the present prohibition of section 15 against the inauguration of new service by an air-mail carrier which in any way competes with the service maintained by another air-mail carrier appears desirable and would be consonant with the authority we now exercise over the establishment of new services by rail and motor carriers.

Need for different type of legislation.—Many provisions of the present laws are so worded, and their requirements interlocked with other provisions in such a manner that interpretation and administration are exceedingly difficult. As an alternative to further amendment of the existing acts, the drafting of an entirely new law for comprehensive regulation of interstate air transportation similar in scope to parts I and II of the Interstate Commerce Act governing the regulation of interstate railway and highway carriers appears, therefore, to be preferable. While the present scheduled air-transport service began as an exclusive mail service, the transportation of persons and property has grown to such volume and extent in recent years that transportation by air has become an integral part of the transport system of the Nation and should be regulated as such.

STANDARD TIME ZONE INVESTIGATION

In our reports for the past 5 years we have directed attention to the growing tendency of States and communities away from the observance of the Federal standard of time and to the adoption of a different standard for local purposes permanently or for a portion of the year. This tendency has continued. Effective March 1, 1936, the city of Chicago, Ill., adopted eastern time as the official time for the transaction of all city business. As authorized by the city, the corporation counsel of the city of Chicago had previously filed with

us a petition which prayed for the extension of the eastern zone, under the provisions of the Standard Time Act, so as to include Chicago. This investigation was accordingly reopened on the question of whether that city, or any of the remainder of the State of Illinois, or any portion or all of the States of Michigan, Ohio, Indiana, or Wisconsin, then in the United States Standard Central Zone, should be included in the eastern zone. A previous petition of the State of Michigan, which had been denied in 1932, 185 I. C. C. 266, was also reopened.

After a full hearing, in our twenty-first supplemental report, 218 I. C. C. 221, we modified the boundary between the eastern and central zones so as to include the Lower Peninsula of Michigan in the eastern zone, but concluded that the further extension of that zone to embrace the city of Chicago could not be made within the standards set by Congress in the Standard Time Act as uniformly interpreted and applied by us in this proceeding.

In our twenty-second supplemental report, 218 I. C. C. 434, we modified the operating exceptions granted one of the railroads serving Michigan.

As we have repeatedly pointed out, the fixation of standards of time cannot be left to the individual States or to their subordinate municipal agencies, except at the cost of complete lack of uniformity. The shifting about of time standards to suit the supposed needs of individual States or communities, either the year round or for the summer months, compels neighboring less powerful States or communities to yield their equal rights of sovereignty, and to concede to the powerful community the domination over time standards, regardless of the effect upon their interests, with no respect for their desires, and heedless of the effect upon operations in interstate commerce or the laws of the United States governing interstate carriers and Government officers. The record developed on further hearing makes it clear that the enormous population of Chicago and the importance of its commerce have extended the effect of its municipal ordinances into many other communities in the State of Illinois and in the neighboring States of Indiana and Wisconsin, against the statutes and counter to the expressed desires of the people of those States.

We find it growing exceedingly difficult to adhere to time-zone boundaries which represent our untrammeled judgment as best suited to the convenience of commerce and the needs of all the communities affected. The independent local change of time standards has forced us into the impotent position of considering chiefly in these proceedings whether the confusion, inconvenience, irritation, and, in some cases danger, created by the resulting differences in time standards, can be removed by bringing the Federal time standard into

conformity with local law, without doing violence to the authority reposed in us by Congress in the Standard Time Act.

Our previous recommendations have been to the effect that either the legislative field be more completely occupied by act of Congress or else the matter be left entirely to the States. Increasing evidence of confusion in interstate commerce caused by varying and conflicting locally adopted time standards now leads us to recommend that Congress amend the Standard Time Act so that it will completely effectuate the purpose announced by its terms; namely, "to establish the standard time of the United States."

BUREAU OF ACCOUNTS

In our last annual report we called attention to the fact that beginning in July 1935 accountants of the Bureau were being assigned to assist in the investigation being conducted by the Senate Committee on Interstate Commerce under Senate Resolution 71. At the time that report was submitted the investigation had absorbed the services of over one-half of the Bureau's force. During the period covered by this report, which embraces the year ended October 31, 1936, there were employed on this investigation at different times and for varying periods 115 of the Bureau's accountants. The average number continuously employed since November 1, 1935, totaled 56, a little less than half of the force of accountants available for field work.

As explained in our last report, the investigation under Senate Resolution 71 embraces the financial affairs and relations of certain typical railroads and involves, among other things, consideration of various matters which are considered in the general examinations of railroad accounts which are made, to the extent that its appropriation permits, by the Bureau of Accounts. At the same time the terms of the resolution enable the inquiry to be carried beyond the records of the railroads, into the records of other companies and persons associated, in one way or another, with the affairs under investigation. It should throw needed light not only on accounting practices but on broader phases of railroad management which have been the subject of much discussion. It has been and is our hope, therefore, that the diversion of so many of our accountants for a temporary period to this special work will have results which will, in their narrower aspects, be helpful in the technical work of the Bureau and also, in their broader aspects, be of general benefit.

The diversion of so large a part of the force to this special work has, however, interfered seriously with the performance by the Bureau of its regular duties, all the more so because, as we have pointed out with particularity in previous reports, the present appropriation is not sufficient to permit the maintenance of a staff of accountants adequate for the general examinations of carrier accounts and rec-

ords which we believe to be desirable in the public interest. As we have heretofore explained, we do not advocate annual audits of the accounts by our staff, but we do believe that the accounts and records of each carrier should be subjected to a general test examination as often as once every 5 years, not only for the purpose of seeing to it that the accounts are kept in accordance with the prescribed classifications, but also for the purpose of disclosing other policies and practices which may be inconsistent with the provisions of the act.

Since the passage of section 77 of the Bankruptcy Act, as amended, an important part of the Bureau's work, in addition to its normal duties, has been special accounting investigations of carriers in connection with plans for their financial reorganization under the provisions of section 77. During the period covered by this report 70 of such investigations have been made covering 17 railroads and their 53 subsidiaries. In addition thereto, the Bureau made 48 general accounting investigations and 58 other special investigations. Of these special investigations, 2 were made for the Federal Coordinator of Transportation and 56 for our own purposes.

In compliance with the requirements of section 20 of the Interstate Commerce Act we have issued 189 orders prescribing the rates for determining the amount of depreciation chargeable to operating expenses by that number of steam-railroad companies; and, so far as it has been practicable to do so with the limited force available, supervision of all such rates and those previously prescribed for 513 railroad companies has been maintained. These orders cover the depreciation rates applicable to equipment for practically all steam-railroad companies. We have also issued appropriate orders following the general investigations of depreciation charges of express and sleeping-car companies which were brought to a conclusion during the year. The preliminary work incident to the actual prescribing of depreciation rates for these classes of carriers, as well as for water carriers and pipe-line companies, is well under way and additional orders prescribing rates of depreciation for individual carriers of these classes will follow.

BUREAU OF AIR MAIL

Our work under the air-mail laws proceeded during the year responsive to the provisions of the amendatory act of August 14, 1935 (49 Stat. 614), which materially expanded and increased our duties as shown in our Forty-ninth Annual Report.

Among those provisions was that of section 6 (e) requiring that, not later than January 15, 1936, and after having made a full and complete examination in the premises, we should report to the Congress whether, in our judgment, the fair and reasonable rate for eight specified air-mail routes is in excess of 33⅓ cents per airplane-

mile, together with a statement of the facts and reasons upon which may be based any recommendations made by us for or against claims for increases. For reasons stated in our communication of January 11, 1936, to the Congress, we were unable to submit this report by the date specified; but it was adopted by us July 7 and forthwith transmitted.

On February 21, 1936, we issued a report and order prescribing the rates of compensation for the transportation of air mail over route no. 31 in Florida, which connects St. Petersburg with Daytona Beach, but which was temporarily extended to Jacksonville, *Air Mail Rates for Route No. 31* (214 I. C. C. 387). A like determination was made on June 22, 1936, in respect of such transportation between points in the Hawaiian Islands, *Air Mail Rates for Route No. 33* (216 I. C. C. 381).

Pursuant to the petition of Northwest Airlines, Inc., we reconsidered our determination as to rates for routes nos. 3 and 16, published in *Air-Mail Compensation* (206 I. C. C. 675). Route no. 3 extends from Fargo, N. Dak., to Seattle, Wash., and route no. 16 from Chicago, Ill., to Pembina, N. Dak., via Fargo. In our report on further hearing, dated June 6, 1936 (216 I. C. C. 166), to meet changed conditions we ordered increases in the rates theretofore found by us to be reasonable for transportation of air mail over these routes.

Our jurisdiction to entertain an application by Transcontinental & Western Air, Inc., for permission to institute and maintain exclusive passenger and express schedules between Albuquerque, N. Mex., and San Francisco, Calif., in connection with present operations over its transcontinental air-mail route no. 2 between Newark, N. J., and Los Angeles, Calif., was questioned by the Postmaster General and the applicant joined him in seeking initial decision on the jurisdictional question. In its report of January 10, 1936, division 3 found that section 15 of the Air Mail Act of 1934, as amended, conferred upon us jurisdiction to entertain the application, *Transcontinental & W. Air, Inc., San Francisco Operation* (213 I. C. C. 551), and on reargument before us the decision of the division was affirmed (214 I. C. C. 552). Hearing on merits of the application has been held and a proposed report was served on the parties September 25, 1936.

On October 1, 1936, Transcontinental & Western Air also filed an application for review of air-mail rates on route no. 2.

Braniff Airways, Inc., operating routes nos. 9 and 15, and Delta Air Corporation, the operator of route no. 24, filed applications requesting a review of the rates fixed for those routes in *Air-Mail Compensation*, *supra*. Route no. 9 extends from Chicago to Dallas, Tex., via Kansas City, Mo.; route no. 15 from Amarillo to Brownsville, Tex., via Fort Worth, with a branch from Waco to Galveston,

Tex.; and route no. 24 from Charleston, S. C., to Fort Worth, via Atlanta, Ga., and Birmingham, Ala.

On April 4, 1936, American Airlines, Inc., inaugurated a nonmail schedule between Washington, D. C., and New York, N. Y. This carrier transports air mail between Chicago and Washington over route no. 25, and between New York and Fort Worth, via Washington, over route no. 23. On May 9, 1936, North American Aviation, Inc., the contractor for the transportation of air mail over route no. 6 between New York and Miami, Fla., via Washington, filed a complaint under section 15 of the Air Mail Act against the inauguration by American of the nonmail schedule between Washington and New York. The hearing in this case has been postponed at the request of the parties.

A complaint filed by Central Airlines, Inc., under section 15 against Pennsylvania Airlines & Transport Co., relating to the latter company's off-line service between Detroit, Mich., and Washington was dismissed on April 20, 1936, upon request of the complainant.

On March 9, 1936, American Airlines, Inc., filed an application for the review of air-mail rates on the eight air-mail routes for which it holds contracts with the Postmaster General. Hearings have been held, and our examiners are preparing a proposed report.

On October 5, 1936, National Parks Airways, Inc., filed an application for adjustment of the base rate mileage fixed by us in *Air-Mail Compensation*, *supra*, to conform to subsequent changes in service requirements for the transportation of air mail over its route no. 19 extending from Salt Lake City, Utah, to Great Falls, Mont.

By order dated October 23, 1936, we instituted, on our own motion, a proceeding of investigation to determine the method or methods to be used for ascertaining the anticipated postal revenue from domestic air mail, in order to enable us to comply with the provisions of section 6 (e) of the Air Mail Act, approved June 12, 1934. A hearing in this matter was assigned for December 3, 1936.

In our previous report we explained the delay occasioned by the passage of the amendatory act of August 14, 1935, in completing the annual review of rates on all 33 domestic air-mail routes for the calendar year 1935. Since that time, the progress of this work has been unsatisfactory due to the inadequacy of the appropriation for air-mail work. Since this review is required to be made at least once in each calendar year, we have consolidated the 1935 program with that for the calendar year 1936. The review of rates for the current calendar year will cover the period from the beginning of operations under each air-mail contract to the end of the respective audit period for each route.

Section 6 (f) requires air-mail carriers to report to us semiannually certain data with respect to free transportation furnished by them. Reports covering the last 6 months of 1935 show that during

that period 43,184 passengers were accorded free transportation to the extent of 22,380,963 passenger-miles, having a tariff value of $1,314,680, and that 467 passengers were transported at reduced fares. The tariff value of such reductions was $9,393 and represented 173,386 passenger-miles. Exclusive of Government officials and employees and persons traveling on company business, 20,514 passengers were accorded free transportation having a tariff equivalent of $689,084. It is probable that many of these free passengers would not have traveled by air had they not been carried without charge. It is just as probable, however, that many of them would have traveled by air in any event. The carriers are required by their contracts to provide passenger service on the theory that as passenger revenues increase the rates of air-mail compensation may be reduced. We understand that the carriers are endeavoring to curtail the amount of free transportation. Analysis of returns for the first 6 months of 1936 has not been completed.

BUREAU OF FINANCE

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

The following is a summary of applications filed during the year for certificates of public convenience and necessity under section 1 (18) to (22) of the act, and of the disposition made of applications. In a few cases single applications filed and certificates issued were for more than one purpose. That is, they related to abandonment, as well as to construction or acquisition or operation. To that extent there are duplications in the totals shown, as indicated in footnotes 1 and 2.

Item	Number	Mileage
Applications filed:		
For authority to construct new lines or extend existing lines	7	106.958
For permission to abandon	125	1,896.893
For authority to acquire or to acquire and operate	26	336.550
Total	[1] 158	2,340.401
Certificates issued:		
Authorizing new construction	6	105.083
Permitting abandonment	116	1,902.996
Authorizing operation or acquisition	21	233.480
Total	[2] 143	2,241.559
Applications denied:		
For authority for new construction	1	236.200
For permission to abandon	5	111.860
For authority to operate	1	8.250
Total	[3] 7	356.310
Applications dismissed:		
For authority for new construction	2	6.600
For permission to abandon	15	249.080
For authority to acquire or to acquire and operate	3	14.310
Total	[4] 20	269.990

[1] Includes 11 duplications.
[2] Includes 4 duplications.
[3] Includes 2 applications denied in part.
[4] Includes 1 application dismissed in part.

Among the applications disposed of during the year were several pending on October 31, 1935. A list of certificates issued appears in appendix F.

We have continued the practice of enlisting the cooperation of the State commissions in these cases. In 13 of them hearings have been held for us by State commissions, and in the majority of cases in which decisions have been reached their recommendations and our conclusions have coincided.

Since the effective date of the act we have authorized the construction of approximately 9,956 miles of new railroad. Our certificates of authorization have, since April 4, 1923, generally included the requirement that carriers shall complete the proposed construction within a specified period, and shall report to us such completion within 15 days thereafter. We have, upon good cause shown by the carriers, granted a number of applications for extension of time for completion. Based on reports by carriers and on other available information, it appears that, of the construction authorized, approximately 6,909 miles of road have been completed, and that projects aggregating about 2,098 miles have been abandoned or deferred. The remainder, about 949 miles, represents cases in which the specified completion periods have not expired.

ACQUISITION OF CONTROL OF ONE CARRIER BY ANOTHER

Under the provisions of section 5 (4) of the act, as amended, it is lawful, with our approval and authorization, for two or more carriers to consolidate or merge their properties, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership; or for any carrier, or two or more carriers jointly, to purchase, lease, or contract to operate the properties, or any part thereof, of another; or for any carrier or two or more carriers jointly, to acquire control of another through purchase of its stock; or for a corporation which is not a carrier to acquire control of two or more carriers through ownership of their stock; or for a corporation which is not a carrier and which has control of one or more carriers to acquire control of another carrier through ownership of its stock. Under this paragraph 35 applications have been filed, and 28 have been granted. A list of authorizations issued appears in appendix F.

ISSUANCE OF SECURITIES AND ASSUMPTION OF OBLIGATIONS

We have received 122 applications and 35 supplements thereto under section 20a of the act and have authorized the issue of securities and the assumption of obligations and liabilities in respect of the securities of others in the aggregate amounts and for the purposes shown in appendix F.

Under section 20a(9) certificates of notification of the issue of notes maturing within 2 years in the aggregate sum of $26,895,401.91 were filed.

The tabulation in appendix F includes all securities authorized, whether for nominal, conditional, or actual issue.[1] It does not include notes and other obligations given the Reconstruction Finance Corporation by carriers to evidence or secure loans by that corporation to them, as neither our authorization of such issues nor the reporting thereof under the provisions of section 20a of the act is required.

The following tabulation shows by classes the respective amounts of securities authorized:

Class of security	Nominal issue	Conditional issue	Actual issue
Common stock			[1] $41,882,900.00
Preferred stock			[2] 43,997,000.00
Prior preferred stock			3,000,000.00
Prior-lien stock			11,882,600.00
Special guaranteed betterment stock	$91,700		
Mortgage bonds	75,616,000	$409,406,900	469,325,400.00
Collateral-trust bonds			103,767,000.00
Debentures			55,335,000.00
Secured notes		16,000	129,366,202.23
Unsecured notes			27,419,184.79
Equipment-trust obligations			78,510,000.00
Receivers' certificates			2,218,000.00
Trustees' certificates			15,880,000.00
Trustees' notes			53,387.51
Total	75,707,700	409,422,900	982,636,674.53

[1] Also 16,100 shares without par value.
[2] Also 4,403,079.5 shares without par value.

The amounts shown as authorized for actual issue do not include securities delivered by a subsidiary to a controlling company subject to our jurisdiction, unless the controlling company has been authorized to dispose of the securities. Such securities are included under either "nominal issue" or "conditional issue" as may be appropriate.

Of the securities for nominal issue, $24,097,000 of mortgage bonds were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding and $41,609,000 of mortgage bonds had been previously authorized for nominal or conditional issue. Of the securities for conditional issue $3,086,000 of mortgage bonds were authorized to be issued in exchange for, or in lieu of, or to pay, extend, or refund other securities nominally, conditionally, or actually outstanding, and $402,974,900 of mortgage bonds and $16,000 of secured notes had been previously authorized for nominal or conditional issue.

Of the securities for actual issue, 100,000 shares without par value and $34,291,700 of common stock, 2,497,483.5 shares without par

[1] These terms are defined at p. 7 in the annual report for 1931.

value and $43,997,000 of preferred stock, $3,000,000 of prior preferred stock, $11,882,600 of prior-lien stock, $394,297,418 of mortgage bonds, $103,467,000 of collateral-trust bonds, $53,835,000 of debentures, $113,310,542.56 of secured notes, $21,729,744.57 of unsecured notes, $6,652,000 of equipment-trust obligations, $2,193,000 of receivers' certificates, and $3,000,000 of trustee's certificates and $43,387.51 of trustee's notes were authorized to be issued in exchange for in lieu of, or to pay, extend, or refund other outstanding securities; $74,008,000 of mortgage bonds had previously been authorized for nominal or conditional issue, and $3,828,000 of common stock and 1,905,596 shares of preferred stock without par value were authorized to be issued in conversion of other securities if and when such securities are presented for that purpose. From the foregoing it appears that additional capitalization to result from the various authorizations is as follows: Nominal issue $10,001,700, conditional issue, $3,346,000, and actual issue, $113,101,281.89 and 60,100 shares of common stock without par value.

During the period covered by this report there has been a substantial decrease in the amount of temporary financing, and particularly for the purpose of obtaining additional funds, the larger part of such financing, as indicated below, being to renew or refund existing obligations. The amount of short-term notes issued without our authorization is shown above. Of this amount, $20,607,595.30 was for renewal of notes previously issued and the remainder was to meet current corporate requirements. In addition, there are included in the foregoing tabulation secured and unsecured notes of a maturity of not more than 3 years and aggregating $80,784,184.79 authorized by us for actual issue. Of the short-term notes so authorized, $71,546,993.38 was to pay, renew, extend, or refund outstanding securities and $9,237,191.41 was for other corporate purposes.

Upon petition of certain carriers we have entered supplemental orders reducing the amount of securities originally authorized to be issued. These orders effect reductions of $12,013,600 in common stock, $53,600 in mortgage bonds, $5,100,000 in collateral-trust bonds, $5,321,000 in equipment-trust certificates, and $777,000 in receivers' certificates.

The annual report for 1931 indicates that of the $476,983,275.52 of securities authorized for actual issue, a total of $257,649,412.50 was authorized to be issued in conversion of other securities if and when presented for that purpose and in exchange for, or to pay, extend, or refund other outstanding securities, leaving $219,333,863.02 issued for obtaining additional funds, property, or other purposes, while the present report indicates that additional capitalization amounts to only $126,448,981.89 and 60,100 shares of capital stock without par

value. Equipment-trust obligations in the amount of $73,858,000 were the principal securities which were issued to obtain new money.

The issue of equipment-trust obligations in so substantial an amount may be accounted for by the fact that carriers required new equipment to replace that retired and also by the further fact that they have been able to sell this class of security, bearing low rates of interest or dividends, at very favorable prices. The nominal rates borne by these obligations have ranged from 2¼ to 4 percent, the average being 2.93 percent, and the prices at which they have been sold resulted in an average annual cost to the carriers of 2.91 percent.

During the 12 months' period covered by this report the market for securities was such that railroad securities bearing low rates of interest were sold on terms advantageous to the railroads and a number of companies have refinanced their outstanding bonds and other obligations thereby effecting substantial savings in interest charges. The total amount of securities refinanced is $633,281,859.70, consisting of $486,054,000 of bonds, $16,300,000 of equipment-trust obligations, and $130,927,859.70 of short-term and demand obligations.

RAILROAD MAINTENANCE AND EQUIPMENT

A statement as to our function and the general character of the duties to be performed by us under the provisions of section 403 (a) (originally section 203 (a)), clause 4, of the National Industrial Recovery Act, is given in the annual report for 1934. Since our last report we have received four applications and two supplemental applications for approval, under the pertinent provisions of the act mentioned, of railroad maintenance and equipment to be financed through the aid of the Federal Emergency Administration of Public Works, and one petition for modification of certificates. We have approved four original and three supplemental applications and petitions. Particulars of the applications approved are given in appendix F.

INTERLOCKING DIRECTORATES

Under the provisions of section 20a (12) of the act it is unlawful for any person to hold the positions of officer or director of more than one carrier unless such holding shall have been authorized by our order. During the period covered by this report we received 140 applications from individuals and 1 from a carrier. These applications related to 171 different individuals. Disposition was made of 148 applications, of which 141 individual applications and 1 carrier application were granted, 5 individual applications were withdrawn, and 1 individual application was dismissed.

SIX MONTHS' GUARANTY AFTER TERMINATION OF FEDERAL CONTROL

The only matter not disposed of under section 209 of the Transportation Act, 1920, prior to the year covered by this report, is the case of the Northern Pacific Railway Co., plaintiff in a suit in the Court of Claims for recovery of approximately $1,500,000, which it repaid following our final decision as to its guaranty claim, 111 I. C. C. 340, in which testimony and exhibits were presented by our representatives in behalf of defendant prior to November 1, 1934. The case is still pending.

RECONSTRUCTION FINANCE CORPORATION ACT

Since our last report, we have approved loans under the Reconstruction Finance Corporation Act aggregating $17,695,667 upon applications filed by six carriers. Upon applications of four other carriers, we also approved, under the provisions of the same act, the purchase by the Reconstruction Finance Corporation of $111,445,400 of the carriers' securities to aid in their financing. A detailed statement will be found in appendix F accompanying this report. The principal purposes for which the loans have been approved, and the total for each purpose are approximately as follows:

Equipment-trust maturities, principal	$5,000,000
Retirement of bonds	12,405,667
Additions and betterments	150,000
Miscellaneous	140,000

The aggregate amount of loans and aids in financing approved by us under this act is $683,085,622.34.

Since work under this act was initiated in February 1932, applications for loans have been filed by 164 carriers or their receivers or trustees. Loans to 71 of these applicants were approved. For various reasons we were unable to approve loans on the application of 43 others and have revoked our approval of 22 loans. In 25 cases the applications were dismissed, usually with the consent of the applicants, and in 3 cases the applications are under investigation. Some of the applicants have received more than one loan.

We have approved the extension of the time of payment of 62 loans aggregating $253,650,736.41 upon applications filed by 36 carriers. Some of the carriers have applied for extensions on more than one loan and have had more than one extension of the same loan. Of these extensions, 59 were approved subsequent to June 19, 1934, the effective date of the amendment of section 5 of the act requiring as a condition precedent to such approval our certification that the carrier was not in need of reorganization in the public interest.

LOANS TO CARRIERS AFTER FEDERAL CONTROL

Our duties during the year in connection with the revolving fund created by section 210 of the Transportation Act, 1920, have been only such as are usually incidental to supervision by the Secretary of the Treasury of loans outstanding under this section.

During the year a total of $602,028.81 was repaid on the principal of such loans outstanding.

Since the effective date of the act we have certified loans to carriers aggregating $350,600,667, of which $325,230,039.45 has been repaid. Interest paid on loans amounts to $90,692,510.32.

Lists of outstanding unmatured loans and of principal and interest due and in default appear in appendix F.

PROGRESS IN REORGANIZATIONS

Since our last report, three additional proceedings, involving seven railroad companies, for reorganizations under section 77 of the Bankruptcy Act, as amended, have been instituted in the district courts of the United States. The first of these proceedings embraces the Denver & Rio Grande Western Railroad Co. and the affiliated Denver & Salt Lake Western Railroad Co.; the second involves the St. Louis Southwestern Railway Co. and its subsidiaries; and the third the Savannah & Atlanta Railway. The latter proceeding was instituted on a creditor's petition, and the other two on petitions of the carriers. In addition to the new proceedings, petitions were filed in the *New York, New Haven & Hartford Railroad case* by the Old Colony Railroad Co. and by the Hartford & Connecticut Western Railroad Co., subsidiary debtors; and in the *Missouri Pacific Railroad system case* by the Boonville, St. Louis & Southern Railway Co., subsidiary debtor. A list of all railroad reorganization proceedings before us, of which there are now 26, is shown in appendix G.

Fourteen plans of reorganization have been filed since our last report, of which 11 were filed by the debtor carriers in proceedings where no plan had previously been filed, and 2 by protective committees and 1 by junior creditor, in proceedings where the debtor carriers have filed different plans. In the reorganization plans that have been presented to the Commission, generally there is evidence of a commendable effort to simplify capital structures. Hearings have been held on plans of reorganization in nine proceedings, viz, the Missouri Pacific Railroad system; the. Kansas City, Kaw Valley & Western Railway; the Alabama, Tennessee & Northern Railroad; the Louisiana & North West Railroad, the Chicago & North Western Railway; the Western Pacific Railroad; the Denver & Rio Grande Western Railroad system; the Chicago, Rock Island & Pacific Rail-

way system; and the Reader Railroad, proceedings. The hearings in the *Kansas City, Kaw Valley & Western Railway* and *Alabama, Tennessee & Northern Railroad cases* have been concluded; and the hearing in the *Louisiana & North West Railroad case* was closed, but reopened upon petition of the Railway Labor Executives Association. The hearings in the other cases have been adjourned for further sessions, that in the *Chicago & North Western Railway case* without a definite date for resumption. The hearing held in the *Chicago, Milwaukee, St. Paul & Pacific Railroad case*, referred to in our last report, is still in indefinite adjournment, but a date has been fixed for the resumption of the hearing on the St. Louis-San Francisco Railway proceedings.

Proposed reports on plans of reorganization were issued during the year in the *Chicago South Shore & South Bend Railroad* and the *Copper Range Railroad cases.* Our final reports on plans of reorganization were also issued during the year in these two cases. That in the first mentioned proceeding was served on the parties and certified to the court; and thereafter modified and again served on the parties and certified to the court. In the other proceedings our final report has been served on the parties and certified to and approved by the court. In one proceeding, that dealing with the Chicago, Rock Island & Pacific Railway system, a plan of reorganization filed by a committee representing a group of preferred stockholders was found by us to be prima facie impracticable. Also, in one case, that dealing with the East St. Louis, Columbia & Waterloo Railway, we issued a certificate recommending to the court dismissal of the proceeding.

Appointments of trustees of the estates of the debtor carriers have been ratified by us during the year in 11 proceedings, in two of which hearings were held prior to such action. In the Akron, Canton & Youngstown Railway proceedings, the appointment of an additional trustee was ratified, and following his demise the appointment of a successor was ratified. In the Missouri Pacific Railroad system proceedings, the extension of the appointment of the trustee of the principal debtor to the estate of one of the subsidiary debtors was also ratified. The appointment of separate trustees for different debtors in the same proceeding was ratified in the *Denver & Rio Grande Western Railroad system case.* In the New York, New Haven & Hartford Railroad system proceeding certain interests have opposed an application for ratification of the appointment of the same trustees for the two debtors. This matter is still pending before us.

Maximum limits of the compensation of the trustees of the debtors, and their counsel where counsel have been appointed, have been ap-

proved by us in 15 proceedings during the year. In three proceedings orders extending such maximum limits previously fixed, to provide for increased compensation, were entered. In the Missouri Pacific Railroad system proceeding maximum limits for the compensation and expenses of counsel for a mortgage trustee in the so-called gold-clause litigation were approved; and also maximum limits for interim compensation and expenses of counsel for the debtor for services in presenting the plan of reorganization. Similarly, maximum limits for interim compensation and expenses of counsel for the debtor in presenting the plan of reorganization in the *Chicago & Eastern Illinois Railway case* were approved. Hearings were held prior to the approval of maximum limits for the compensation and expenses of counsel for the mortgage trustees and debtors in these proceedings, as required by the section. In the *Missouri Pacific case*, maximum limits for interim compensation and expenses of special counsel to the trustee in the *Terminal Shares* litigation were also approved, after a hearing.

Hearings have been held on the applications of five protective committees for subsection (p) authorization, including one committee organized prior to August 27, 1935; such authorization has been granted in three instances, and in two instances the applications are still pending before us. In one case, the Missouri Pacific Railroad system proceeding, a report has been made to the court, at its request, pursuant to the provision of subsection 77 (c) (9) having reference to facts pertaining to irregularities, fraud, misconduct, or mismanagement, as a consequence of which the debtor might have a cause of action arising against any person or corporation. The request of the court in this instance was limited to facts other than those relating to the subject matter of certain reports and of the so-called *Terminal Shares* contracts; and we reported that we had found that we were not in possession of any facts of the nature described.

BUREAU OF FORMAL CASES

The formal complaints filed numbered 457, of which 373 were original complaints and 84 subnumbers, a decrease of 46 as compared with the previous period. We decided 683 cases and 106 have been dismissed by stipulation or on complainants' requests, making a total of 789 cases disposed of, as compared with 973 during the previous period.

Approximately 52 formal and I. & S. cases have been reopened for further hearing and reconsideration.

We conducted 725 hearings and took approximately 136,780 pages of testimony, as compared with 760 hearings and 118,380 pages of testimony during the preceding period.

The following statement shows certain facts with respect to the condition of this docket as of October 31 of the years indicated.

	1933	1934	1935	1936
Formal complaints filed	621	486	469	373
Subnumbers	120	59	34	84
Investigation and suspension cases instituted	98	127	103	118
Cases under submission at end of period:				
Regular docket	369	256	159	174
Shortened procedure	46	47	33	28
Cases disposed of, including subnumbers and reopened cases	1,773	1,617	1,195	903
Number of pending cases	1,460	994	849	713

SHORTENED PROCEDURE

Approximately 30 percent of the total number of formal complaints are now handled by the shortened procedure method as compared with 36, 37, and 36 percent during the 3 preceding years. In cases so handled and decided during this year the average elapsed time to reach a decision was 310 days from the receipt of complaint and 179 days from receipt of the final memorandum. The corresponding periods during the 3 preceding years were 342 and 190 days, 317 and 176 days, and 337 and 202 days, respectively. The following statement gives details concerning the docket as of October 31 of the years indicated:

Explanation	1933	1934	1935	1936
Suggested for handling under the shortened procedure, either by us or by the parties	423	263	270	211
In which method not accepted by one or more of the parties	173	81	107	114
In which agreement was subsequently reached by the parties, making further formal proceedings unnecessary:				
Before service of complainant's memorandum	14	11	2	5
After service of complainant's memorandum	6	7	2	4
In which complaints withdrawn	19	13	10	12
Dismissed for want of prosecution	3	1	1	0
Decided	232	194	156	111
Pending in various stages short of submission	162	117	119	83
Pending under submission at end of period	46	47	33	28
Total pending cases	208	164	152	111

BUREAU OF INFORMAL CASES

The number of informal complaints received was 1,170, a decrease of 305. The carriers filed 3,917 special docket applications for authority to refund amounts collected under the published tariffs and admitted by them to have been unreasonable, a decrease of 1,005. Orders authorizing refunds were entered in 3,219 cases, a decrease of 991, and reparation thereunder was awarded in the sum of $484,368.70. In addition, 753 cases were dismissed or disposed of without orders. The Bureau also handled approximately 13,000 letters, many of which have the characteristics of informal complaints

although not classified as such. Others sought general information and informal rulings upon the rights and obligations of the public and common carriers under existing statutes.

BUREAU OF INQUIRY

Our staff of attorneys and special agents directed and made approximately 200 investigations during the year. Certain of such investigations disclosed practices which depleted carriers' revenues.

In certain instances it was found that the carriers had granted concessions to shippers and practiced discriminations through the device of failing to collect demurrage, reconsigning and switching charges applicable under the published tariffs. In other instances shippers obtained the benefit of through rates to which they were not entitled by means of the manipulation by them of transit tariffs applicable on cotton, grain, and other commodities. Several prosecutions of carriers and shippers were based on abuses of transit privileges. A civil suit for forfeiture of three times the amount of the rebate received was brought against a shipper which had filed claims with carriers for the protection of through rates to which it falsely represented that it was entitled under the provisions of transit tariffs applicable at New Orleans on molasses. The defendant confessed judgment in the sum of nearly $5,000. This is the first instance in which the forfeiture provisions of section 1 of the Elkins Act have been employed.

It appears from our investigations that the excessive filing by shippers with railroad companies of false loss and damage claims on shipments of perishables still persists, and that in numerous cases the carriers, for traffic reasons or otherwise, pay such claims with little or no investigation as to the merits thereof. During the year eight prosecutions based on false claims practices were instituted.

In one instance a criminal information was filed against a carrier, as well as against the shipper involved, for the payment of a rebate of $17,500 upon claims for alleged damage arising from the failure of the carrier to furnish equipment for the transportation of the shipper's traffic, payment of which had been barred by the statute of limitations, thereby destroying any carrier liability even if originally existent.

The failure of carriers to collect freight charges within the time limit prescribed in the regulations promulgated by us under the provisions of section 3 (2) of the act occurred in several localities due principally to competitive conditions between carriers. Credit so extended to shippers constitutes such a concession and discrimination as is prohibited by section 1 of the Elkins Act. Several indictments for this offense were returned against carriers and shippers.

During the year two injunction suits based on the failure of carriers to publish their charges in conformity with section 6 of the act were instituted in the district court for the district of Nebraska. Petitions were filed to enjoin the performance by carriers at Omaha of switching and terminal operations, or so-called agency services as between them, at private contract rates instead of at published tariff charges. The cases still are pending.

Investigations were conducted during the year for the purpose of obtaining information to be used in the development of the record at hearings in two formal-docket proceedings, namely, *Practices of Pittsburgh, Lisbon & Western Railroad Company et al.* (Docket No. 27402), which still is pending, and *Chicago, Indianapolis & Louisville Ry. Co. Reorganization* (Finance Docket No. 10294), in which we have rendered a report (212 I. C. C. 543).

A decision of importance in the enforcement of the criminal provisions of the act was rendered in *United States* v. *Satuloff Bros.* (79 F. (2d) 846). In that case the Circuit Court of Appeals, Second Circuit, in affirming a conviction obtained in the lower court for the solicitation and acceptance of a rebate in violation of section 1 of the Elkins Act, adopted the ruling, announced during the preceding year by the District Court for the Western District of New York in *United States* v. *Altman* (8 F. Supp. 880), that the filing of a false claim with a carrier constitutes the solicitation of a rebate and may be made the basis of an indictment under the Elkins Act notwithstanding the fact that such conduct is specifically made unlawful by section 10 (3) of the Interstate Commerce Act. This is the first instance in which an appellate court has upheld the principle that the Government may choose either of the two sections in bringing prosecution for fraudulent claim practices. The circuit court of appeals also ruled that a judgment obtained by Satuloff Bros., in a court of civil jurisdiction, upon the claim which formed the basis of the indictment tried in the lower court, was not a bar to the prosecution, and was not admissible in the criminal proceeding as evidence that the claim was not fraudulent. In so ruling the court used the following language:

> The judgment in the civil action may well be said to be a verdict on the evidence there that it was more probable than not that the facts plaintiffs there alleged were true. Between the parties to that suit this verdict was final unless reversed on appeal. As against one not a party to that suit, it is not binding. The civil action was tried between different parties upon different issues. Judgments and decrees rendered in civil suits are inadmissible in evidence in criminal prosecutions as proofs of any facts determined by such judgments or decrees, and the reason for the rule as stated has been that the parties are different and that the quantum of proof required in one case is different from that required in another.

This is the first court ruling that prosecution founded upon an alleged false claim for loss or damage, filed with a carrier by a shipper, may be used as the basis of a criminal prosecution under the act, notwithstanding the fact that judgment in favor of the claimant has been rendered by a civil court in a suit brought to obtain the damage alleged in the claim.

In *United States* v. *Elgin, Joliet & Eastern Ry. Co.* (298 U. S. 492), the Supreme Court upheld the decree of the District Court for the Northern District of Illinois (*United States* v. *Elgin, J. & E. Ry. Co.*, 11 F. Supp. 435), that the bill for an injunction brought by the Government to restrain the carrier from alleged violations of the commodities clause of the act should be dismissed for want of equity because the evidence failed to show that the defendant has any interest in the articles or commodities which it transports for the subsidiaries of the United States Steel Corporation, a holding company which owns all of the stock of the carrier. The Supreme Court held that (1) it was impossible for it to declare as matter of law that every company, all of whose shares are owned by a holding company, necessarily becomes an agent, instrumentality, or department of the latter; (2) whether such intimate relation exists between the two corporations is a question of fact to be determined upon evidence; and (3) the evidence failed to support the claim of the Government that the carrier must be regarded as the alter ego of its sole stockholder.

One other case, alluded to in our last report, wherein the Government is seeking to restrain a carrier from violating the provisions of the commodities clause, still is pending in the District Court for the Western District of Pennsylvania. That case is based upon the relation existing between the Montour Railroad Co. and the Pittsburgh Coal Co., the latter, a producing company, owning all of the stock of the former.

For violations of the act and related acts, 32 indictments were returned, and 9 informations and 3 petitions were filed. The specific offenses alleged therein were the granting and accepting of concessions and rebates by carriers and shippers, respectively; false description of freight, and furnishing false reports of weights thereof, by shippers; filing of false claims for loss and damage by shippers with carriers; unlawful use of interstate passes; and failure of carriers to publish and to observe tariffs. Forty-eight cases were concluded in the district courts and fines aggregating $81,090 were imposed.

Prosecutions instituted and concluded were distributed over the following States, in addition to the District of Columbia: Arizona, California, Florida, Georgia, Idaho, Illinois, Louisiana, Maryland, Michigan, Missouri, Nebraska, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, and Wisconsin.

A summary (*a*) of indictments returned, and informations and petitions filed, in United States district courts, and (*b*) of cases concluded in those courts, is set forth in appendix A.

BUREAU OF LAW

On October 31, 1935, there were 39 cases involving our orders or requirements pending in the courts. During the year, 34 cases have been instituted, and 9 have been concluded, leaving 64 cases now pending in the different courts. Of these 1 is in the Supreme Court of the United States, 61 are in the district courts, 1 is in the Court of Appeals for the District of Columbia, and 1 is in the Circuit Court of Appeals for the Third Circuit.

Five cases were submitted for decision to the Supreme Court of the United States and decided, and four were concluded in the district courts of the United States. Summaries of all the foregoing cases are shown in appendix B.

The cases decided by the Supreme Court were:

Atlanta, B. & C. R. Co. v. *United States* (296 U. S. 33).

This case involved the validity of our order of July 9, 1934, in Docket 25170, *Accounting for Capital Items*, (201 I. C. C. 645), wherein we authorized the appellant, which was the new company formed to take over the properties of the A. B. & A. Ry. upon its reorganization, to issue for the properties $5,180,300 in preferred stock and 150,000 shares of no-par common stock, and authorized the Atlantic Coast Line, in consideration of the transfer to it of all the common stock, to guarantee 5 percent dividends on the preferred stock and to agree to extinguish all prior liens on the property, aggregating $4,248, 413.76. Our order was sustained by the Supreme Court.

After reviewing earlier proceedings both before us and in court, the Supreme Court said:

> The district court, in dismissing the bill, declared that it was unnecessary to pass upon the soundness of the ground originally taken by the Commission, since, on the evidence in the proceeding under review, it had made a valuation of the properties as of January 1, 1927; had made that valuation an independent ground of its decision and order; and had appraised the properties "at such a value as that subtraction of the par of the preferred stock gives the same figures for the common stock as were reached originally by the Commission." The Court added: "We do not discover any breach of law in arriving at the value. As a finding of fact it is binding in this court. In either view of the transaction of reorganization, the figure set up by the Commission in the attacked order is unassailable." We agree with the District Court.
>
> This Court is without power to weigh the evidence. *Virginian Ry.* v. *United States*, 272 U. S. 658, 665. The report of the Commission (201 I. C. C. 645–671) makes it clear that there was ample evidence to support its find-

ing and order. It appeared, among other things, that the railroad had been an enterprise peculiarly disastrous to investors; that for the period from 1916 to 1926 the operating expenses had largely exceeded the operating revenues; that the net railway operating income for the year 1926 was the highest since 1917; and that these earnings, if capitalized at 5 per cent, would indicate a value of only $2,908,300. The Commission concluded that "an immediate measure of value of the non-par stock would be the amount contemporaneously paid and agreed to be paid for it by the Coast Line Company." (201 I. C. C. 665.) In reaching its conclusion, it considered the report filed in 1923 in the Valuation Proceeding, and also the evidence as to the cost of reproduction, and said: "Clearly, the only pertinent value is that for purposes of sale or exchange. Cost of reproduction is to be given little, if any, weight in determining such value, in the absence of evidence that a reasonably prudent man would purchase or undertake the construction of the properties at such a figure." (Id. 38–39.)

Chesapeake & Ohio Ry. Co. v. *United States* (296 U. S. 187).

In this case the court sustained the validity of our order of February 7, 1935, in Docket 26080, *Northeast Kentucky Coal Bureau* v. *Chesapeake & Ohio Ry. Co.* (206 I. C. C. 445), requiring the establishment of nonprejudicial rates on coal from mines in the Big Sandy and Lexington districts of Kentucky to Catlettsburg, Ky., for transshipment by barge on the Ohio River. Our order was sustained by the district court (11 F. Supp. 588) and this action was affirmed by the Supreme Court on November 25, 1935, in a per curiam opinion, which agreed with the conclusion of the district court "that the order in question was sustained by findings of the Commission acting within its statutory authority and that these findings were adequately supported by evidence."

George Allison & Co., Inc., v. *United States* (296 U. S. 546).

This case involved the validity of our order of November 7, 1933, in Docket 23972, *Burch* v. *Railway Express Company* (197 I. C. C. 85), wherein appellant sought to have the court remand the proceedings to the Commission concerning the basis for an award of reparation, with directions to proceed in accordance with petitioners' concept of the law. Our order was sustained by the district court (12 F. Supp. 862) and this action was affirmed by the Supreme Court on November 11, 1935, in a per curiam opinion based upon authorities cited in the decree of affirmance. (No opinion was written.)

Baltimore & Ohio R. Co. v. *United States* (298 U. S. 349).

This case involved the validity of the Commission's order of January 8, 1934, in Docket 24069, *Atlantic Coast Line R. Co.* v. *Arcade & Attica R. Corp.* (198 I. C. C. 375), wherein we prescribed a just, reasonable, and equitable basis of divisions of the rates on citrus fruit from Florida to points in official territory. From a decision of the district court sustaining our order (9 F. Supp. 181) an appeal

was taken to the Supreme Court, where, after two arguments, the decision of the lower court was affirmed. In defining the nature of the duties imposed upon us in fixing divisions, the Court said:

* * * The prescribing of divisions is a legislative function. Exertion of that power by the commission is conditioned upon its findng after a full hearing that the divisions then in force do not, or in the future will not, comply with the specified standards. In proceedings to determine and prescribe divisions the commission is governed by Sections 1 (4), 15 (6), 15a (2); it is not required or authorized to investigate or determine whether the joint rates are reasonable or confiscatory. The question whether it complied with the requirements of the Act does not depend upon the level of the rates or the amounts of revenue to be divided. The purpose of the provisions just cited is to empower and require the commission to make divisions that colloquially may be said to be fair. (Id. 356–357.)

The Court also said:

* * * There is no single test by which "just", "reasonable", or "equitable" divisions may be ascertained; no fact or group of facts may be used generally as a measure by which to determine what division will conform to these standards. Considerations that reasonably guide to decision in one case may rightly be deemed to have little or no bearing in other cases. Error as to the weight to be given financial needs, operating costs or other material facts is not a misconstruction of the Act. (Id. 359.)

In overruling the appellants' claim that the decision gave undue weight to evidence of the southern lines, the opinion reads:

* * * Appellants' claim that the order rests exclusively upon the southern lines' financial needs is negatived by the record. Many other facts were shown to have been presented and considered. There is no requirement that the commission specify the weight given to any item of evidence or fact or disclose mental operations by which its decisions are reached. Useful precision in respect of either would be impossible. And it would be futile upon the record to attempt definitely to ascertain the weight assigned to any fact or argument in prescribing the divisions. We find no support for appellants' claim. (Id. 359–360.)

The Court next held that on the issue of confiscation the carriers were entitled to a trial de novo in court, and on this point said:

* * * But, upon the question whether prescribed divisions constitute just compensation within the meaning of the Fifth Amendment, Congress is without power conclusively to bind the carriers. As the Congress itself could not be, so it cannot make its agents be, the final judge of its own power under the Constitution. Congress has no power to make final determination of just compensation or to prescribe what constitutes due process of law for its ascertainment. (Id. 364.)

The Court also held that the claim of confiscation had been seasonably presented by appellants, and finally it considered the cost study presented by appellants to show the confiscatory nature of the divisions, which cost study depended upon the assumption that citrus fruit car-mile cost is at least as high as the average of system car-mile costs. After referring to the difficulty of producing actual cost

figures, the Court held that the criticisms of these figures made by appellees were substantial, and in conclusion said:

> We conclude that the evidence is not sufficient to establish with requisite certainty what has been or will be the cost of the service covered by the prescribed divisions and that the district court rightly dismissed the suit. (Id. 381).

United States v. *State of Idaho* (298 U. S. 105).

This case involved the validity of our order of November 29, 1933, in Finance Docket No. 9096, *Oregon Short Line Railroad Company Abandonment* (193 I. C. C. 697), wherein we permitted the Oregon Short Line to abandon its Talbot branch in Idaho. From an adverse decision of the district court (10 F. Supp. 712) we appealed to the Supreme Court, which affirmed the lower court's decision. The facts are described in the opinion of the Supreme Court as follows:

> The Oregon Short Line Railroad, an interstate carrier, owns nine miles of tracks, in Teton County, Idaho, known as the Talbot branch and extending to a coal mine at Talbot. It applied to the Interstate Commerce Commission for authority to abandon that trackage. The State intervened through its Attorney General and Public Utilities Commission. They objected, among other things, on the ground that the Interstate Commerce Commission was without jurisdiction, since the so-called Talbot Branch was in fact a "spur" or "industrial track" located wholly within the State. The objection was overruled; and authority to abandon the trackage was granted by Division 4. * * * (Id. 107.)

After setting out the findings of the district court, the Supreme Court held that the decree should be affirmed because the findings were amply supported by the evidence.

Concerning appellants' contention that it was error to admit additional testimony in the district court, the Supreme Court said:

> * * * Although it would have been better practice to have introduced all relevant evidence before the Commission, as appellee's counsel concede, the court did not err in admitting the additional testimony. For whether certain trackage is a "spur" is a mixed question of fact and law left by Congress to the decision of a court—not to the final determination of either the federal or a state commission. (Id. 109.)

Other decisions of interest in connection with our work were:

United States v. *State of California* (297 U. S. 175).

This case involved the question of whether the State of California, in the operation of the State-owned State Belt Railroad, is a common carrier engaged in interstate transportation by railroad, and subject to the penalties of the Safety Appliance Act for hauling over this road a car equipped with a defective coupling apparatus.

After stating that "Whether a transportation agency is a common carrier depends not upon its corporate character or declared

purposes, but upon what it does", and after referring to the manner in which the State Belt Railroad is operated, the Court said:

All the essential elements of interstate rail transportation are present in the service rendered by the State Belt Railroad. They are the receipt and transportation, for the public, for hire, of cars moving in interstate commerce. * * * Its service, involving as it does the transportation of all carload freight moving in interstate commerce between the industries concerned and all railroad and steamship lines reaching the port, is of the same character, though wider in scope, as that held to be common carriage by rail in interstate commerce in the *Brooklyn Terminal* and the *Union Stockyard cases.* They abundantly support the conclusion that such is the service rendered by the State in the present case, a conclusion twice reached by the Court of Appeals for the Ninth Circuit, see *McCallum* v. *United States,* 298 Fed. 373; *Tilden* v. *United States,* 21 F. (2d) 967. (Id. 182–183.)

The Court next overruled the claim of the State that in its operation of the State Belt Railroad it is engaged in performing a public function in its sovereign capacity, and for that reason cannot constitutionally be subjected to the provisions of the Safety Appliance Act, and in this connection said:

California, by engaging in interstate commerce by rail, has subjected itself to the commerce power, and is liable for a violation of the Safety Appliance Act. as are other carriers, unless the statute is to be deemed inapplicable to state-owned railroads because it does not specifically mention them. The federal Safety Appliance Act is remedial, to protect employees and the public from injury because of defective railway appliances, * * *, and to safeguard interstate commerce itself from obstruction and injury due to defective appliances upon locomotives and cars used on the highways of interstate commerce, even though their individual use is wholly intrastate. * * * The danger to be apprehended is as great and commerce may be equally impeded whether the defective appliance is used on a railroad which is state-owned or privately-owned. No convincing reason is advanced why interstate commerce and persons and property concerned in it should not receive the protection of the act whenever a state, as well as a privately-owned carrier, brings itself within the sweep of the statute, or why its all-embracing language should not be deemed to afford that protection. (Id. 185.)

The circuit court of appeals in its opinion had held that, as the State of California was a party to the case, a suit for violation of the Safety Appliance Act could be brought only in the Supreme Court of the United States under article III, section 2, of the Constitution, which extends the judicial power of the United States and the original jurisdiction of the Supreme Court to cases "in which a State shall be a party." The Supreme Court reversed this holding as erroneous.

Southern Ry. Co. v. *Lunsford* (297 U. S. 398).

This case involved the construction of section 2 of the Boiler Inspection Act of June 7, 1924. The facts showed that an engineer on one of the Southern Railway trains, the locomotive of which was equipped with a mechanism beneath the frame, known as Wright's

Little Watchman, was killed when the engine overturned. The Court stated that the Little Watchman—

carried a valve closing an entrance into the air line actuated by a lever or trigger. A pull on this would open the valve, let out air and thus set the brakes. The lever was connected with the forward truck; if its wheels left the track and fell five inches or more a downward pull was expected.

Testimony in the case indicated that this device was in the experimental stage and being tried out with the hope of securing good results. The Court construed the provisions of the Boiler Inspection Act, held that it had not "heretofore undertaken to give definite interpretation to the words 'parts and appurtenances' ", and stated:

The Commission has promulgated no rule mentioning Little Watchmen; they are not subjected to inspection; without them locomotives "may be employed in the active service * * * without unnecessary peril to life or limb." While most carriers do not use them their locomotives commonly are in "proper condition." (Id. 401.)

* * * With reason, it cannot be said that Congress intended that every gadget placed upon a locomotive by a carrier, for experimental purposes, should become part thereof within the rule of absolute liability. So to hold would hinder commendable efforts to better conditions and tend to defeat the evident purpose—avoidance of unnecessary peril to life or limb. Whatever in fact is an integral or essential part of a completed locomotive, and all parts or attachments definitely prescribed by lawful order of the Interstate Commerce Commission, are within the statute. But mere experimental devices which do not increase the peril, but may prove helpful in an emergency, are not. These have not been excluded from the usual rules relative to liability. (Id. 402.)

Pennsylvania R. Co. v. *Illinois Brick Co.* (297 U. S. 447).

In this case there was involved a reparation award of the Illinois Commerce Commission based upon the fact that the Pennsylvania Railroad Co. and the Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Co. had collected from respondent unreasonable and discriminatory charges for intrastate transportation of brick from Bernice, Ill., to points within the Chicago switching district. The reparation awarded covered transportation between October 28, 1920, and February 16, 1922, during a portion of which time or from October 27, 1921, to February 16, 1922, the rates charged by the carriers were imposed upon them as a result of our decision of January 11, 1921, in *Intrastate Rates Within Illinois* (60 I. C. C. 92). In that case we found that the intrastate rates subjected shippers and localities outside the State of Illinois to undue prejudice and unjustly discriminated against interstate commerce. The Court held under these circumstances the Illinois Commerce Commission had no authority to award reparation during the period within which our order was effective, and in this connection said:

* * * There is no suggestion that the intrastate rates in respect of which the Illinois commission awarded reparation were not made in obedience to and

in strict accordance with the order of the Interstate Commerce Commission. Save as the rate so prescribed might be dealt with under federal law, the carriers were bound to collect the charges based upon them. By the Interstate Commerce Act and that order, the State was divested of jurisdiction, by specific order, award of reparation or otherwise, to reduce the charges based on the intrastate rates so established. The order of the Illinois commission, in so far as it awards reparation in respect of transportation covered by rates that petitioner was required to put in force and maintain by the Interstate Commerce Commission's order of January 11, 1921, is plainly repugnant to the Interstate Commerce Act and to that order. To the extent, therefore, that the judgment depends on that part of the award, it is without foundation and cannot be sustained. (Id. 460.)

The Supreme Court sustained the award of the Illinois Commission insofar as it covered transportation during that portion of the period within the statute of limitations during which the rates were not covered by our outstanding order.

Terminal Warehouse Co. v. *Pennsylvania R. Co.* (297 U. S. 500).

This was a suit under the antitrust laws, wherein appellant sought to recover treble damages by reason of defendants' alleged unlawful combination in restraint of trade or commerce.

In its opinion the Court reviewed prior cases involving the same subject matter decided by us, including *Gallagher* v. *Pennsylvania R. Co.* (160 I. C. C. 563), sustained in *Merchants Warehouse Co.* v. *United States* (283 U. S. 501). The Court pointed out that while in the *Gallagher case*, supra, the railroad was required to cease publishing or making discriminatory allowances in favor of the warehouse companies, we had refused an award of reparation, concerning which the opinion reads:

We have seen that Terminal asked for reparation as well as for a restraining order at the hands of the Commission. There is no doubt that the Commission had jurisdiction in response to that request to make an award against the railroad for damages suffered by the complainant as a result of the unlawful practices. * * *. The Commission found, however, that no damages had been proved, and its ruling as to that was final, not subject to review by this court or any other. * * *. True, the complainant might have confined itself to a request for a restraining order, and after thus invalidating the preference have asked a court for reparation. 49 U. S. C., Section 9. It had a choice, in other words, between a remedy at the hands of the Commission and a remedy by suit, but by express provision of the statute it could not have them both. * * *. Reparation under the Commerce Act was thus permanently barred by the ruling of the Commission as against the offending carrier. * * *. (Id. 507–508.)

In its opinion the Court also stated:

Discriminatory privileges and payments given by a carrier to a consignor or consignee are unavailing without more to make out a combination in restraint of trade or commerce within the meaning of the Anti-Trust Laws. To lead to that result the privileges or payments must be the symptoms or incidents of an enveloping conspiracy with its own illegal ends. In the absence of such a showing a sufferer from discriminatory charges and allowances has his remedy

under the Commerce Act for any damage to his business, and that remedy is exclusive against all the parties to the wrong. (Id. 511.)

After reviewing its decision in *Keogh* v. *Chicago & North Western Ry. Co.* (260 U. S. 156), and *United States Navigation Co., Inc.*, v. *Cunard Steamship Co., Ltd.* (284 U. S. 474), the Court said:

What was said in these opinions is precisely applicable here. If a sufferer from the discriminatory acts of carriers by rail or by water may sue for an injunction under the Clayton Act without resort in the first instance to the regulatory commission, the unity of the system of regulation breaks down beyond repair. * * *. On the other hand, if the regulatory commission has issued a "cease and desist" order, an injunction under the Clayton Act is inappropriate and needless. 49 U. S. C., Section 16 (7), (8), (12). The same considerations are applicable, and with undiminished force, where the suit under the Clayton Act is not for an injunction but for damages. There too a finding of undue discrimination by the regulatory board is a necessary preliminary to a suit against the carrier. See cases *supra*. Certain then it is that the Anti-Trust Laws are inapplicable in all their apparent breadth to carriers by rail or water. A consignor or consignee aggrieved by such a wrong must resort to the appropriate administrative agency, at least for many purposes. If he is remitted to the Commerce Act or the Shipping Act to cancel the illegal preference, may he pass over those acts and revert to the Clayton or the Sherman Act for the purpose of recovering damages? The Commerce Act like the Shipping Act embodies a remedial system that is complete and self-contained. It provides the means for ascertaining the existence of a preference, but it does not stop at that point. As already shown in this opinion, it gives a cause of action for damages not only against the carrier, but also against shippers and consignees who have incited or abetted. For the wrongs that it denounces it prescribes a fitting remedy which, we think, was meant to be exclusive. If another remedy is sought under cover of another statute, there must be a showing of another wrong, not canceled or redressed by the recovery of damages for the wrong explicitly denounced. The opinions of this court in their fair and natural extension point to that conclusion. * * *. (Id. 513–515.)

In illustrating cases where a carrier might become a party to a conspiracy in restraint of trade or commerce with liability for treble damages, the Court said:

In thus holding we do not intimate that never in any circumstances can a carrier become a party to a conspiracy in restraint of trade or commerce with liability for treble damages. This has been made plain already. We enlarge on it for greater certainty. Wherein the case is now deficient will be made clearer by example. One may suppose a business of a manufacturer which has assumed the form and size of a monopoly, or if not already at that stage, is well upon the road thereto. * * * One may add a situation in which a carrier has knowingly confederated with the owner to preserve such a business or foster it. Whatever liability grows out of that alliance is untouched by this decision. For present purposes we may assume that if such a situation should develop, the carrier would make itself a participant in the monopoly which it had conspired to produce, though its only overt act was a discriminatory rate of carriage. Again, a group of manufacturers, whose business in combination would not amount to a monopoly, might unite among themselves to lay a burden upon commerce by concerted action as to prices. * * *. If a carrier were to give a preference in furtherance of that conspiracy, it would become

a participant therein, or so we may assume, the damages being measured not merely by the consequences flowing from the preference, but by those flowing from the conspiracy in all its comprehensive unity. (Id. 515–516.)

The Court concluded that there was no conspiracy to monopolize the storage business to the destruction of the Terminal Co. or of others similarly situated.

Aron v. *Pennsylvania R. Co.* (298 U. S. 658).

In this case the Supreme Court denied a petition for writ of certiorari to review a decision of the Circuit Court of Appeals for the Second Circuit in 80 F. (2d) 100, involving the right of livestock shippers to recover, under the Interstate Commerce Act, charges exacted from them by railroads in connection with handling the stock during stop-over, which charges were not filed in the carrier's tariff. Upon complaint of another shipper we found that the rate charged was not unreasonable, and the Supreme Court by denying certiorari refused to disturb the decision of the lower court sustaining our finding.

Pennsylvania R. Co. v. *Public Utilities Commission* (298 U. S. 170).

The question before the Court in this case was whether certain shipments of coal were in interstate commerce and subject to our jurisdiction, or in intrastate commerce subject to jurisdiction of the Ohio Commission. The lower court sustained the authority of the State Commission, and the Supreme Court affirmed that decision. The facts are described in the opinion as follows:

Pittsburgh Coal Company, an appellee in this court, is the owner of coal mines in Pennsylvania, so situated that the product of the mines can readily be conveyed by the use of the owner's cars and tipple to barges waiting to receive it on the Monongahela River. Much of the coal is sold to consumers in Ohio. The company has its own barges in which the coal is towed by its own tug boats, first over the Monongahela River and then over the Ohio, to Smith's Ferry, Pennsylvania. There it has its own right of way with tracks and cars and engine. The coal, when transferred from the barges to the cars, is taken over this right of way a distance of about eleven miles, to Negley, Ohio. At Negley, or near by, is the Brush River Plant, owned by the coal company, where the coal is dumped from the cars, washed, freed from foreign matter and impurities, and broken up or assorted into the sizes desired by the customers. Then for the first time it is ready for shipment to fill specific orders, which often are not received until after it has left the mines. Up to that point the carriage has been solely by a private carrier, making use of its own facilities, its trains and tugs and barges.

At Negley the coal after being put in shape for sale is loaded upon the cars of the Pittsburgh, Lisbon and Western Railroad Company, referred to in the record as Lisbon, for transportation to consignees at Youngstown or elsewhere. Lisbon is a common carrier by rail, which connects at Signal, Ohio, with the tracks of the Youngstown and Suburban Railroad Company, referred to in the record as the Y. & S. The route of that line, about 22.2 miles,

is between Signal and Youngstown, where there are interchange facilities with the Pennsylvania and the Erie. (Id. 171–172.)

In holding that the transportation of the coal from Negley, Ohio, to Youngstown was intrastate, and its character in that regard was not changed because of preliminary carriage from the Pennsylvania mines in barges and cars belonging to the shipper, the Court said:

With the aid of these definitions the problem before us takes on a new simplicity. The only transportation of this coal by a common carrier of merchandise either by railroad or by water was intrastate transportation in Ohio between Negley and Youngstown. The transportation between Pennsylvania and Ohio was by the owner, who was not a common carrier, but furnished implements of carriage for its own use exclusively. Appellants would have us hold that this interstate transportation by an owner who does not carry for any one else will be tacked to the intrastate transportation by railroads who are in business as common carriers, and the movement thus consolidated brought within the statute. The statute and the decisions as we read them forbid this unifying process. * * *. (Id. 175.)

After distinguishing certain cases relied upon by appellants, the opinion continues:

Neither in the cases cited by the appellants nor in any others known to us has transportation by a common carrier been combined with carriage by an owner for the purpose of subjecting the whole to the operation of the statute when the parts would be exempt. Such a fusion, if permitted, would lead to strange results. * * *

We have found it unnecessary to consider in the disposition of the case whether the treatment of the coal at Negley would break the continuity of the movement from the mines, even if interstate transportation would otherwise exist. * * * (Id. 176.)

Tipton v. *Atchison, T. & S. F. Ry. Co.* (298 U. S. 141).

In this case the Supreme Court held that a switchman who was injured in the State of California, in the course of his employment in intrastate commerce on a railroad which is a highway of interstate commerce, due to a defective coupler used in violaiton of the Safety Appliance Acts, could sue under the Workmen's Compensation Act of the State. In the course of its opinion the Court referred to the duties imposed upon the carriers by the Safety Appliance Acts, and in this connection said:

The Safety Appliance Acts impose an absolute duty upon an employer and prescribe penal sanctions for breach. The earliest, that of 1893, affected only cars which were being used in interstate commerce. By the Act of 1903 the duty was extended to all cars used upon any railroad which is a highway of interstate commerce. * * *. The absolute duty imposed necessarily supersedes the common law duty of the employer. But, unlike the Federal Employers' Liability Act, which gives a right of action for negligence, the Safety Appliance Acts leave the nature and the incidents of the remedy to the law of the states. * * *. The Safety Appliance Acts modify the enforcement, by civil action, of the employee's common law right in only one aspect, namely, by withdrawing the defense of assumption of risk. * * *. They do not

touch the common or statute law of a state governing venue, limitations, contributory negligence, or recovery for death by wrongful act. (Id. 146)

Chicago Great Western Railroad Company v. *Rambo* (298 U. S. 99).

This case involved a construction of the Boiler Inspection Act, section 23 of which reads:

It shall be unlawful for any carrier to use or permit to be used on its line any locomotive unless said locomotive, its boiler, tender, and all parts and appurtenances thereof are in proper condition and safe to operate in the service to which the same are put, that the same may be employed in the active service of such carrier without unnecessary peril to life or limb, and unless said locomotive, its boiler, tender, and all parts and appurtenances thereof have been inspected from time to time in accordance with the provisions of sections 28, 29, 30 and 32 and are able to withstand such test or tests as may be prescribed in the rules and regulations hereinafter provided for.

The Court stated that under permission of the Boiler Inspection Act, we had adopted rule 129, which reads:

Each locomotive used in road service between sunset and sunrise shall have a headlight which shall afford sufficient illumination to enable a person in the cab of such locomotive who possesses the usual visual capacity required of locomotive engineers to see in a clear atmosphere, a dark object as large as a man of average size standing erect at a distance of at least 800 feet ahead and in front of such headlight; and such headlight must be maintained in good condition.

The Court's opinion reviews the evidence relating to the death of an employee of a railroad while riding on a gasoline speeder, and held that it was insufficient to sustain the jury's findings of negligence on the part of the railroad company in that it failed to equip the locomotive with a headlight of the illuminating power required by rule 129.

United States v. *Elgin, J. & E. Ry. Co.* (298 U. S. 492).

In this case the Court had before it for review a decision of the district court holding that the facts developed by the Government did not constitute a violation of the commodities clause, section 1 (8) of part I of the Interstate Commerce Act, which reads:

From and after May first, nineteen hundred and eight, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

In affirming the action of the district court and in holding adversely to the Government's contention, the Supreme Court said:

It is now insisted that, although a railroad company may own the shares of a producing company and yet transport the latter's products without violat-

ing the Commodities Clause, if a holding company acquires the shares of both carrier and producer, then such transportation becomes illegal. The theory is that the subsidiaries of holding companies are necessarily no more than parts of it. Evidently, this is entirely out of harmony with the reasoning advanced to support the construction of the Act adopted in United States v. Delaware & H. Co., supra; also in direct conflict with the above quoted language from United States v. Delaware, L. & W. R. Co.

Considering former rulings, it is impossible for us now to declare as matter of law that every company all of whose shares are owned by a holding company necessarily becomes an agent, instrumentality, or department of the latter. Whether such intimate relation exists is a question of fact to be determined upon evidence. (Id. 500–501.)

In conclusion the Court said:

* * * notwithstanding certain isolated acts may indicate undue control over the carrier at their dates, we think that the findings are essentially correct and support the decree. Instances of participation in the affairs of the appellee by the officers of the United States Steel Corporation, stressed by counsel, are relatively few; a material part of them occurred years ago—some of the more important in 1909. They are not adequate to support the claim that appellee must be regarded as the alter ego of its sole stockholder. The mere power to control, the possibility of initiating unlawful conditions is not enough as clearly pointed out in United States v. Delaware & H. Co., supra. That a stockholder should show concern about the company's affairs, ask for reports, sometimes consult with its officers, give advice and even object to proposed action is but the natural outcome of a relationship not inhibited by the Commodities Clause.

We find no adequate reason for disapproving the challenged decree and it must be affirmed. (Id. 503–504.)

BUREAU OF LOCOMOTIVE INSPECTION

The work of this Bureau is shown in detail in the report of the chief inspector, published separately. Except as otherwise stated the report here made is for the fiscal year ended June 30, 1936.

The past fiscal year marked the completion of a quarter of a century of Federal locomotive inspection and a brief statement of the reasons for the law and the accomplishments during that period are given below.

Because of frequent explosions and other accidents due to the use of defective locomotive boilers and appurtenances thereto resulting in loss of life and injuries to employees and others there was a movement among the railway employees toward the enactment of a Federal law requiring that the railroads maintain their locomotive boilers in safe and serviceable condition.

The Locomotive Boiler Inspection Act was approved on February 17, 1911. The act, which became effective on July 1, 1911, set up a general safety standard and made provision for formulation and promulgation of rules and regulations which, after a specified procedure, became obligatory upon the carriers.

Authentic records as to the number of casualties caused by defective boilers and their appurtenances prior to the enactment of the Locomotive Boiler Inspection Act are not available, but table A shows a comparison of the number of persons killed and number of persons injured as a result of failure of some part or appurtenance of the locomotive boiler for the first year in which the act was operative and for the year ended June 30, 1936.

TABLE A

Boiler and its appurtenances only	Year ended June 30—	
	1912	1936
Number of persons killed	91	10
Number of persons injured	1,005	80

The total number of persons killed as a result of failures of locomotive boilers and their appurtenances in the period shown was 717, and the total number of injured was 8,771. If the casualties had occurred at the same rate throughout the period as they occurred in the first year in which the act was effective, there would have been 2,275 persons killed and 25,125 injured.

Our inspections disclosed that many locomotive boilers and their appurtenances were being operated in a defective condition when the act became effective. Among the more serious defective conditions found were cracks in boiler shells; improperly designed patches which greatly reduced the strength and safety of the boiler; excessive pitting and grooving; loose, broken, or defective braces; numerous broken and defective stay bolts and crown stays: firebox sheets cracked and leaking; and excessive accumulations of mud and scale on crown sheets and in the firebox water legs due to improper washing of the boilers.

During the first year there were 3 boiler-shell explosions in which 27 persons were killed and 41 injured and 94 crown-sheet and firebox failures in which 54 persons were killed and 168 injured. The number of locomotives ordered from service by our inspectors for necessary repairs was 3,377. In addition, the following locomotives were required to be strengthened or changed to comply with the requirements of the law or permanently removed from service:

Number having pressure reduced to insure a proper factor of safety---- 699
Number having seams reinforced by welt plates to insure a proper factor of safety---- 327
Number permanently removed from service on account of defective condition---- 698
Number having lowest reading of water glass raised to comply with the law---- 992

Number having the lowest gage cock ordered raised to comply with the law	408
Number ordered strengthened by having braces of greater sectional area applied	351
Number requiring additional support for crown sheet	116

It will thus be seen that during the first year a total of 6,968 locomotives were either held out of service for repairs or changed and strengthened to conform to the requirements of the law or permanently removed from service.

Due to the necessity of maintaining their boilers and appurtenances in better condition than theretofore, the railroads thereafter concentrated their efforts on conditioning their boilers, with resultant neglect of other parts of the locomotives. Accidents caused by failures of parts of the locomotive other than the boiler and its appurtenances began to increase, with resultant loss of life and injury to employees and others. The employees, through their various organizations, again appealed to Congress for relief, and the Boiler Inspection Act was amended to include the entire locomotive and tender and later was amended to include all locomotives regardless of the source of power.

When the machinery rules became effective, the need was apparent. These rules are almost an exact copy of the rules filed with the Commission by more than 170 of the leading railroads of the country, who certified that they were the rules then in force on their respective roads.

The general attitude was to subordinate the making of needed repairs to the requirements of convenience. Although the railroads had inspection rules that were adequate for the purpose, little if any attempt was made to make immediate repairs if any inconvenience would be caused thereby, and, as with the boiler, locomotives in known bad condition were continued in use until application of needed repairs seemed to be more convenient or until failure occurred which often resulted in deaths or injuries. The attitude at that time is well illustrated by the following excerpt from a letter from the receiver of an important railroad to a then assistant chief inspector of this Bureau:

> It is a very different thing for an Association to adopt rules or standards to which the railroads shall work, or for railroads themselves to adopt rules from which they may themselves vary, and having a law which the Federal Government at Washington may enforce literally and absolutely.

The expressions, "That's good enough", "Hurry up and get her out", "We will get that next trip", and kindred expressions were very common at that time and were responsible for many accidents caused by defects in the locomotives.

Our endeavor has been to have necessary repairs made promptly and properly, and the wisdom of this policy is illustrated in the improved condition of the locomotives, enabling them to make longer runs; reduction in the number of killed and injured due to failures; and greatly increased mileage per engine failure.

During the fiscal year 1917, the first full year after the law was extended to include the entire locomotive and tender, there were 616 accidents, resulting in 62 killed and 721 injured, while in the fiscal year ended June 30, 1936, there were 209 accidents, resulting in 16 persons killed and 215 injured.

The results obtained by this Bureau in the quarter of a century of its existence in promoting the safety of the employees and travelers on the railroads, due largely to regular and more thorough inspection and repairs, evidence the soundness and value of the legislation. Due credit is also given to the tireless and conscientious attention to their duty of our corps of inspectors throughout the life of the locomotive boiler inspection law.

The following tables covering the fiscal years indicated are self-explanatory.

TABLE I.—*Reports and inspections—Steam locomotives*

	Year ended June 30—					
	1936	1935	1934	1933	1932	1931
Number of locomotives for which reports were filed	49,322	51,283	54,283	56,971	59,110	60,841
Number inspected	97,329	94,151	89,716	87,658	96,924	101,224
Number found defective	11,526	11,071	10,713	8,388	7,724	10,277
Percentage inspected found defective	12	12	12	10	8	10
Number ordered out of service	852	921	754	544	527	688
Total number of defects found	47,453	44,491	43,271	32,733	27,832	36,968

TABLE II.—*Accidents and casualties caused by failure of some part of the steam locomotive, including boiler, or tender*

	Year ended June 30—					
	1936	1935	1934	1933	1932	1931
Number of accidents	209	201	192	157	145	230
Percent increase or decrease from previous year	[1] 4.0	[1] 4.7	[1] 22.3	[1] 8.3	36.9	22.0
Number of persons killed	16	29	7	8	9	16
Percent increase or decrease from previous year	44.8	[1] 314.3	12.5	11.1	43.7	[1] 23.0
Number of persons injured	215	267	223	256	156	269
Percent increase or decrease from previous year	19.5	[1] 19.7	12.9	[1] 64.1	42.0	15.9

[1] Increase.

TABLE III.—*Accidents and casualties caused by failure of some part or appurtenance of the steam locomotive boiler* [1]

	Year ended June 30—							
	1936	1935	1934	1933	1932	1931	1915	1912
Number of accidents	75	68	63	53	43	91	424	856
Number of persons killed	10	24	4	3	8	15	13	91
Number of persons injured	80	119	77	55	46	122	467	1,005

[1] The original act applied only to the locomotive boiler.

TABLE IV.—*Reports and inspections—Locomotives other than steam*

	Year ended June 30—				
	1936	1935	1934	1933	1932
Number of locomotive units for which reports were filed	2,361	1,911	1,288	1,349	1,274
Number inspected	3,118	1,620	1,436	1,368	1,411
Number found defective	252	146	69	74	57
Percentage inspected found defective	8	9	5	5	4
Number ordered out of service	11	5	4	4	6
Total number of defects found	674	447	158	176	126

TABLE V.—*Accidents and casualties caused by failure of some part or appurtenance of locomotives other than steam*

	Year ended June 30—				
	1936	1935	1934	1933	1932
Number of accidents	9	8	1	2	2
Number of persons killed					
Number of persons injured	9	8	1	2	2

INVESTIGATION OF ACCIDENTS AND GENERAL CONDITION OF LOCOMOTIVES

All accidents reported to the Bureau as required by the law and rules were carefully investigated and appropriate action taken to prevent recurrence as far as possible. Copies of accident investigation reports were furnished to parties interested when requested, and otherwise used in our effort to bring about a diminution in the number of such accidents.

STEAM LOCOMOTIVES

There was an increase of 8 in the number of accidents occurring in connection with steam locomotives, a decrease of 13 in the number of persons killed, and a decrease of 52 in the number of persons injured compared with the previous year.

During the year 12 percent of the steam locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before the locomotives were put into use; this percentage has remained the same during the past 3 years. There was a reduction of 7.5 percent in the number of locomotives ordered withheld from service by our inspectors because of the presence of defects that rendered the locomotives immediately unsafe.

CROWN-SHEET FAILURES AND OTHER BOILER ACCIDENTS

Boiler explosions caused by crown-sheet failures continue to be the source of most of the fatal accidents. There was a decrease of 3 accidents, a decrease of 13 in the number of persons killed, and a de-

crease of 52 in the number of persons injured from this cause, as compared with the previous year. Eight persons were killed in such failures. This represents 50 percent of all fatalities that occurred during the year. Eight persons were injured in accidents caused by crown-sheet failures. This represents 3.7 percent of all injuries that occurred during the year.

Other boiler and appurtenance accidents, including the failure of a side sheet due to overheating caused by negligence in not washing the boiler as often as water conditions required, resulted in the death of 2 persons and the injury of 72 persons.

Compared with the first year in which the boiler inspection act was effective there was a reduction of 91 percent in the number of accidents, a reduction of 89 percent in the number of persons killed, and a reduction of 92 percent in the number of persons injured.

EXTENSION OF TIME FOR REMOVAL OF FLUES

One thousand one hundred and fifteen applications were filed for extensions of time for removal of flues, as provided in rule 10. Our investigations disclosed that in ninety-two of these cases the condition of the locomotives was such that extensions could not properly be granted. Seventy-five were in such condition that the full extensions requested could not be authorized, but extensions for shorter periods of time were allowed. One hundred and twenty-four extensions were granted after defects disclosed by our investigations were required to be repaired. Twenty-eight applications were canceled for various reasons. Seven hundred and ninety-six applications were granted for the full periods requested.

LOCOMOTIVES PROPELLED BY POWER OTHER THAN STEAM

There was an increase of one in the number of accidents occurring in connection with locomotives other than steam, and an increase of one in the number of persons injured as compared with the previous year. No deaths occurred in either year.

During the year 8 percent of the locomotives inspected by our inspectors were found with defects or errors in inspection that should have been corrected before the locomotives were put into use as compared with 9 percent in the previous year. There was an increase of six in the number of locomotives ordered withheld from service by our inspectors because of the presence of defects that rendered the locomotives immediately unsafe.

Changes or modifications in some of the rules for inspection and testing of locomotives other than steam became effective on May 1, 1936. These changes were designed to clarify the applicability of

certain rules to the various types of heating equipment involved and to reduce the fire hazard incident to the use of liquid fuels, particularly the fuels used in internal-combustion engines.

Special hazards accompany the use of internal-combustion engine-driven equipment due to the volatility and inflammability of the liquid fuels. Eight fires from this cause have been recorded in the past year; four of the fires caused personal injuries, but all may have resulted in major disasters had it not been for fortunate circumstances.

The principal causes of these fires are overflowing through fuel reservoir vent pipes or carburetors when the reservoirs are being filled due to lack of proper means to indicate the height of fuel in the reservoirs or to inattention on the part of persons performing the filling operation, flooding of carburetors when the engines are in operation, and inability to control the engine speed due to unsuitable throttle mechanism or defective speed governors.

If fires are to be avoided, it is incumbent upon the carriers to see that all practical mechanical safeguards are provided and maintained in good operating condition, and that all who are charged with the duty of filling the reservoirs be fully informed as to the proper and safe procedure and the results that may accrue through inattention or carelessness.

SPECIFICATION CARDS AND ALTERATION REPORTS

Under rule 54 of the Rules and Instructions for Inspection and Testing of Steam Locomotives, 164 specification cards and 3,732 alteration reports were filed, checked, and analyzed. These reports are necessary in order to determine whether or not the boilers represented were so constructed or repaired as to render safe and proper service and whether the stresses were within the allowed limits. Corrective measures were taken with respect to numerous discrepancies found.

Under rules 328 and 329 of the Rules and Instructions for Inspection and Testing of Locomotives Other Than Steam, 578 specifications and 96 alteration reports were filed for locomotive units and 538 specifications and 182 alteration reports were filed for boilers mounted on locomotives other than steam. These were checked and analyzed and corrective measures taken with respect to discrepancies found.

APPEALS

No formal appeal by any carrier was taken from the decisions of any inspector during the year.

BUREAU OF MOTOR CARRIERS

EFFECTIVE DATES OF VARIOUS SECTIONS OF THE ACT

The Motor Carrier Act, 1935, was approved by the President on August 9 of that year, but by its terms did not become effective prior to October 1, 1935. Therefore our last report to Congress dealt with this act only in a preliminary manner.

While, as stated, October 1, 1935, was named as the effective date of the act, a proviso authorized us, if we found it necessary or desirable in the public interest, to postpone the taking effect of any provision to such time after that date as we should prescribe, but not beyond April 1, 1936. Pursuant to this proviso, we postponed the effective date of sections 206, 207, 208, and 209, all of which relate to the issuance of certificates of public convenience and necessity for common carriers and permits for contract carriers, until October 15, 1935. This short postponement of 2 weeks was necessitated by our inability to procure the necessary supply of printed forms.

We likewise suspended the provisions of sections 216, 217, 218, and 219, which relate to the filing of tariffs by common carriers by motor vehicle and of schedules or contracts by contract carriers, until March 31, 1936. This action was necessary because of the inexperience of these carriers in the preparation of tariffs and schedules of rates, fares, and charges in the manner prescribed by our tariff regulations, and the magnitude of the task of preparing such tariffs and schedules.

SECTION OF CERTIFICATES AND INSURANCE

One of the basic requirements of the act is that which provides that every common carrier by motor vehicle shall secure from us a certificate of public convenience and necessity, every contract carrier a permit, and every broker a license. In sections 206 and 209 it is provided that if carriers in operation when those provisions took effect should make applications for certificates or permits within 120 days from the effective date, the continuance of such operation should be lawful pending the determination of such applications. As above stated, we suspended the effective date of these sections to October 15, 1935, so that the 120 days extended to February 12, 1936. Under the provisions of the statute it was necessary for anyone desiring to begin operations as a common or contract carrier by motor vehicle after October 15, 1935, first to secure a certificate or permit from us.

Sections 206 and 209 further provide that if a common carrier by motor vehicle were in operation on June 1, 1935, and continuously thereafter, it should be entitled to a certificate without further proof of public convenience and necessity; and that if a contract carrier by motor vehicle were in operation on July 1, 1935, and continuously

thereafter, it should be entitled to a permit without further proceedings. These provisions are commonly referred to as the "grandfather" clauses of the act, and the rights conferred thereby are referred to as "grandfather" rights.

The applications which have been filed may be classified as follows:

Filed under "grandfather" clauses:			
Prior to Feb. 12, 1936:			
Property:			
Carriers	75,977		
Brokers	1,551		
		77,528	
Passengers:			
Carriers	2,842		
Brokers	58		
		2,900	
Total			80,428
After Feb. 12, 1936:			
Property:			
Carriers	3,141		
Brokers	64		
		3,205	
Passengers:			
Carriers	118		
Brokers	2		
		120	
Total			3,325
For determination of status			167
Operations begun between June 1 or July 1, 1935, and Oct. 15, 1935:			
Property:			
Common carriers	110		
Contract carriers	85		
		195	
Passengers: Common carriers		65	
Total			260
New operations after Oct. 15, 1935:			
Property:			
Common carriers	630		
Contract carriers	678		
Brokers	15		
		1,323	
Passengers:			
Common carriers	122		
Contract carriers	6		
Brokers	5		
		133	
Total			1,456
Grand total			85,636

Protests have been presented against our granting applications under the "grandfather" clauses in about 40,000 cases, chiefly upon

the ground that, in whole or in part, the claims are not in accord with the facts. These protests have been made largely by railroads, other motor carriers, and State commissions.

The system of certificates, permits, and licenses is of basic importance in the scheme of regulation, and it is, therefore, vital that we act on the pending applications with the least possible delay. Many of them did not supply all the information requested and essential to action, and the corrections of these deficiencies has entailed, and is entailing, much labor on the part of the section, the amount of which can be appreciated when the great number of applications is borne in mind. The facts in regard to bona-fide operation on the "grandfather" date, including the routes and character of traffic handled, are being checked on the records of the State authorities, and with their help, and also by our district directors and supervisors in the field. There has apparently been a tendency on the part of a considerable number of applicants to expand their claims unduly. If hearings are necessary in all the protested cases, action on the applications will be prolonged over a very long period of time, especially if we are unable to increase the staff of the Bureau materially. We hope, however, through the plan of checking which is being followed and with the cooperation of applicants and protestants, to reduce the necessity for hearings to a comparatively small percentage of cases and to be able to issue a very large number of the certificates, permits, and licenses within a comparatively short time.

SECURITY FOR PROTECTION OF THE PUBLIC

Section 215 of the act provides that no certificate or permit shall be issued to a motor carrier or remain in force unless such carrier complies with such reasonable rules and regulations as we shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer or other securities or agreements, in such reasonable amount as we may require, conditioned to pay, within such amount, any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under such certificate or permit, or for loss of and damage to property of others. We are also authorized to prescribe similar rules and regulations governing security for compensation to shippers or consignors for all property belonging to them and coming into the possession of a common carrier by motor vehicle in connection with its transportation service.

The importance of this matter, both to the motor carriers and to the general public, is obvious. The Section of Certificates and Insurance, immediately after its organization, began an intensive study

of the entire subject of insurance as it affects motor carriers. This study included an examination of all the State laws on the subject, reports of insurance companies, and the practices of established and well operated motor carriers. Upon completion of the study in the early spring of 1936, a tentative draft of rules and regulations was prepared by the section and widely circulated, not only to motor carriers but to insurance companies and insurance commissioners of the several States. Thereafter a conference lasting several days was held in Washington and was attended by representatives of both motor carriers and insurance companies. Subsequently we held a public hearing in Washington which lasted 4 days. Based upon the record, we issued a report and order on August 3, 1936, prescribing rules and regulations. The order by its terms was to become effective November 15, 1936, but has since been postponed until December 15.

In our rules and regulations we established minimum limits of insurance, or similar protection, for motor carriers of passengers and of property and for brokers. In fixing these minimum limits, we had in mind not only the protection of the public but the financial condition of many of the small operators on whom the cost of insurance would be a heavy burden. While the minimum limits so established are not high, they are as high as those provided by a great majority of the States. We shall watch this situation closely and if experience demonstrates that the limits which we have fixed are too low to afford reasonable protection, not only to the motor carriers but to the general public, we shall establish higher limits.

We prescribed a form of endorsement to be attached to every insurance policy issued pursuant to our regulations. This endorsement contains every provision required by our rules on this subject and by its terms is made paramount to any other condition in the policy or in any other endorsement attached thereto. By requiring that the insurance company furnish and file with us a certificate showing that this endorsement has been attached to the policy issued to the carrier, we avoided the necessity of requiring the original policies of insurance to be deposited with us. This practice has proved satisfactory with other departments of the Government and we anticipate economy in time and labor from its adoption.

MOTOR-CARRIER RATES

Our information is that when the transportation of property by motor carriers began its rapid development the rates of such carriers were based largely on rail class rates. Often they were slightly lower, but at times the same, and occasionally higher. During the early period the motor carrier relied largely on the service it rendered to obtain traffic in competition with the other and longer established modes of transportation. The radius of motor carrier opera-

tion was, in general, limited at first, being confined to distances requiring continuous operations for less than 12 hours. Special or commodity rates were not prevalent.

As the advantage of motor carriage in certain situations became more and more evident to the shipping public, special commodity rates between large shipping points were established by the carriers. One reason was the tendency of industry to provide transportation through the medium of privately owned trucks. The result was to lower the average level of motor-carrier rates. During this period the radius of operation was not greatly increased.

Thereafter there was a decided expansion in the territory served. The average distance of motor-carrier hauls increased materially. The need of tonnage for return movements, particularly where long hauls were involved, became evident. To attract such tonnage, lower truckload commodity rates were often established.

Truckload minimums were based largely on the weight of any particular commodity which the truck could accommodate. These were necessarily lower than the carload minimums in effect by rail carriers, so that the final result was comparatively low minimums by truck coupled with rates based upon the carload rail rates. This, also, had a tendency to reduce the average level of motor-carrier rates.

Comparatively little consideration has been given to the question of what is inherently an appropriate and reasonable basis for stable and orderly motor-carrier rates, for the transportation of property, filling the needs of both carriers and shippers. While it is true that many States have statutes regulating intrastate transportation by motor carriers, few have undertaken to prescribe any system of rates, and the majority have not gone beyond requirements that tariffs of rates, fares, and charges be filed and thereafter strictly observed. Within the trucking industry, there seems to be two schools of thought. Many of the carriers seem content to use the railroad rates as a model, making only such differences as are necessary to attract traffic. Others are endeavoring to establish simplified rates and classifications, based fundamentally on trucking conditions and costs.

As yet, shippers have filed no formal complaints attacking the lawfulness of motor-carrier rates, although they have in some instances requested the suspension of changes in these rates. That complaints are likely to arise seems evident, for there are many departures from uniformity in the rates charged by the carriers, even where the same commodities and the same territory are involved. The complaints so far filed with us, however, have been by one motor carrier, or a group of carriers, against rates alleged to be unreasonably low and established by another carrier or group of carriers.

Our information is that the first result of compelling the motor carriers of property to publish and file their rates was to precipitate

a downward movement in such rates. Competing motor carriers, of which there are a very large number, were by the publication given definite advice of what each was charging, and the natural tendency was for the rates to gravitate to the lowest level. This tendency has caused great concern among motor carriers, for it resulted in a depression in the net earnings of many of them at a time when operating expenses were increasing. They are making efforts, through conferences, and with some apparent success, to check this tendency, as well as to avoid destructive competition and to bring some of the unduly low rates up to a level which will enable them to maintain reasonable wages and working hours for employees, and provide adequate service to the public. But there is no apparent indication of a tendency to make the rates unreasonably high.

These attempts at stabilization and avoidance of unduly low levels have been made by the motor carriers themselves. We have been asked to assist at times by suspending proposed rate reductions, but this we have so far done in comparatively few cases. As yet, rail carriers have not sought increases in motor-carrier rates through complaints filed with us, but in a few instances they have joined with motor carriers in requests for suspension.

The tendency of the rail carriers has been to continue to reduce their rates to meet motor-carrier rates. The motor carriers have frequently protested against proposed reductions by rail carriers and in some cases we have suspended such proposals pending investigation. In the majority of cases, however, these proposals, after investigation, have been found justified and permitted to become effective.

We believe that the motor carriers of property should be encouraged in their efforts to bring a greater degree of order and stability into the rate structure through conferences and group consideration of common problems, and expect many good results from such endeavors. It may be anticipated, however, that eventually we shall be called upon in formal proceedings to give consideration to many of the rates, for the protection both of the carriers and of the public. It may also be anticipated that we shall, from time to time, be called upon to intervene in the competitive warfare between the railroads and the trucks, in order to set reasonable limits to the rate-cutting process. We are preparing to the best of our ability for such eventualities, bearing in mind that it is our duty to deal fairly and impartially with both classes of carriers and in such manner as to recognize and preserve their inherent advantages and foster sound economic conditions in each form of transportation, to the end that relations between them may be improved and transportation by them be coordinated.

SECTION OF TRAFFIC

The Section of Traffic has been established to handle all administrative matters arising under sections 216, 218, and 219 of the act, requiring motor carriers to publish and file their rates, fares, and charges for transportation services. This section formulates for our approval regulations governing the form, arrangement, filing, and posting for public inspection of carriers' tariffs, schedules, copies of written contracts and memoranda of oral contracts; and advises and instructs carriers concerning all such matters in order that they may comply with our regulations, and also to bring about simplification, clarity, and uniformity in the publications. It assists in the settlement, through informal negotiations between carriers and between shippers and carriers, of as many controversies involving rates, fares, and charges as possible without litigation. It further advises us with respect to general rate policies and the intricate questions of rate structure and tariff interpretation.

In the organization of this section, as in all other sections, every attempt was made to obtain personnel which, by reason of its training and experience, would understand the problems of the motor-carrier industry and be qualified to assist us in the formulation and carrying out of policies particularly adapted to regulation of such carriers. The officers of the section are men of long experience in shipper, motor carrier, or regulatory fields of traffic. Before the majority of the personnel could be employed, it was necessary for the Civil Service Commission to hold a competitive examination designed to obtain for us employees experienced in motor-carrier transportation. This procedure necessarily took time and the register, made up from this examination, was not available for our use until late in May 1936; consequently the section was seriously handicapped by a lack of personnel until July 1936.

Shortly after the section was organized it formulated, and we adopted, regulations to govern the publishing and filing of common-carrier tariffs and contract-carrier schedules, which regulations have been printed and distributed to the carriers. In the process of formulation numerous conferences were had with representatives of carriers and shippers regarding the provisions to be included therein. The regulations were made very simple at the start. They may, and probably will, have to be amplified later, but it was deemed desirable to await the results of experience before endeavoring to make them comprehensive and complete in all respects. Owing to the fact that many motor carriers have had little or no previous experience in publishing their rates and charges, we adopted and are carrying out an educational program, which necessitates explaining in detail

by personal interviews and by correspondence the manner in which tariffs and schedules should be prepared and filed in order to meet the requirements of the act and our regulations issued thereunder. The Washington office is still carrying on this phase of the work, and it is now being assisted (since September 1936) by rate agents in the 16 district offices, who maintain close contact with the carriers and are proving to be a very valuable aid both to them and to us.

In March 1936 a limited number of experienced employees were transferred from our other bureaus. These, aided by approximately 60 temporary employees, received, recorded, and filed nearly 40,000 initial tariffs and schedules, most of which were received during the last half of March, and all of which were published to become effective April 1, 1936.

In July tariff examiners obtained from the civil-service register reported, and we then began constructive handling of the tariffs and schedules filed by the carriers with a view to securing greater simplicity and uniformity in the publishing of the rates, fares, and charges.

Since the organization of this section there have been filed 52,979 tariff publications, 16,897 schedules, and 1,867 copies of written contracts or memoranda of oral contracts, containing the rates, fares, and charges of common and contract carriers of passengers or property. Of this number, 1,115 were rejected or returned as not being in consonance with the provisions of sections 217 (a) or 218 (a) of the act and our regulations issued thereunder. All of these publications have been indexed and filed and beginning April 1, 1936, have been made available for public inspection at our Washington office. In the indexing of these publications nearly 500,000 index cards were made, and these are being added to from day to day as new publications are received for filing.

Powers of attorney and certificates of concurrence filed aggregated 48,945. Applications received seeking special permission to establish rates, fares, or charges on less than statutory notice numbered 4,038. Specific orders have been entered granting 3,099 and denying 820 of these applications. The remainder were disposed of otherwise. Correspondence relating to tariff construction in accordance with our regulations promulgated under sections 217 and 218 of the act consisted of 47,666 letters received and 54,864 letters written. For our own use, as well as the use of other branches of the Government and shippers, 953 rate memoranda were prepared.

In addition to the duplicate file of tariffs, schedules, and copies of contracts maintained at our Washington office, which is available for use by the general public, there is maintained also in each of the 16 district offices a file of the tariffs, schedules, and copies of contracts issued by the carriers having their principal office in that district.

One hundred and fifty-five applications seeking authority under the provisions of section 219 of the act to establish rates dependent upon or varying with released or declared values were received. Of this number, 51 were granted, 6 were denied, 29 are pending, and the remainder were disposed of informally.

Numerous changes in rates, fares, or charges have been protested and suspension asked for in 217 instances. These protests covered not only a large number of issues filed by the carriers but many hundreds of rates. The following action was taken on these requests for suspension:

Suspended	35
Refused to suspend	40
Issues rejected, requests for suspension withdrawn or protested issues withdrawn	128
Total	203
Pending	14

In order properly to perform the functions of this section, there have been allocated to it 162 positions. Of this number, because of the lack of funds, there are only 110 employees actually assigned. In addition to these, five stenographers have been loaned from other sections to assist in handling the great volume of correspondence.

SECTION OF COMPLAINTS

All applications for certificates of public convenience and necessity for permits, and for licenses which require hearings are heard by the Section of Complaints through its examiners, or by the joint boards described below, with the assistance of the section. As already indicated, a very large number of such applications have been filed, and many will require a formal hearing. In addition, applications of this character are being received at the rate of approximately 10 a day, all of which new applications will require formal hearings.

All formal complaints attacking the validity of rates and charges of motor carriers and all investigation and suspension matters are handled by this section. While it has been the policy wherever possible to deal with and adjust rate complaints informally, it is only a matter of time until it will be necessary for us to assign an increasing percentage of such matters for formal hearing.

Investigations concerning the establishment of various rules and regulations, determination of the status of motor carriers (for example, whether they are common or contract carriers), and determination of the extent of municipal areas, under section 203 (b) (8), are conducted by this section.

These formal cases are heard by examiners or by joint boards created pursuant to section 205. The joint boards are composed of

representatives of States through which extend the operations or proposed operation of the particular motor carrier under consideration.

The examiners and joint boards submit reports and recommend orders which are then served by the section upon all interested parties. After service, these recommended orders and reports are reviewed and recommendations are made to us as to whether they should be stayed, in the absence of exceptions filed by interested parties, or be permitted to become the orders and reports of the Commission. If the recommended orders are stayed or if exceptions are filed, the matters are then presented to us, after oral argument, if it is desired, for final order.

All administrative details in connection with the preparation and service of orders assigning cases and appointing joint boards and joint board members, the scheduling of cases for hearing, and the arranging of itineraries of joint board members and examiners are handled by this section.

It deals with all informal complaints pertaining to matters other than those referred to the Section of Law and Enforcement, such as complaints pertaining to rates, service, or abandonment of operations. In these matters an effort is made through correspondence with the respective interests involved to effect an amicable adjustment or settlement. In connection with this informal work all inquiries relating to the determination of status of motor carriers and other related legal problems, together with all inquiries from field officers with respect to problems which they have encountered, are handled in the first instance or in their preliminary stages by this section.

The status of the formal cases, including the applications for authority to operate, is as follows:

Ready for hearing but not yet assigned	423
Set for hearing but not yet heard	290
Heard:	
Briefs not yet due	49
Ready for preparation of recommended report and order	181
Sent to joint board for approval	24
To be prepared for circulation to division 5	12
Awaiting oral argument	14
Order took effect	20
Served but 20-day period not yet expired	56
Recommended report and order being stenciled for service	31
Assigned for hearing but application withdrawn or applicant did not appear	69
Recommended order and report with reviewing section	53
Hearing canceled or postponed	55
Final report circulated	2
Adopted	2
Total heard	568

The cases have been heard by the examiners of the section or by the joint boards heretofore created (177 joint boards out of a possible number of more than 500 eventually to be created on the basis of cases now pending). On these joint boards already created, 114 State representatives have served. The majority of these representatives have served on four or more boards. An examiner of the section, known as a joint board agent, has been present at every such hearing to advise and assist the joint boards.

In preparation for the actual hearing of the matters above referred to there were prepared forms of orders, reports, rules governing procedure, and other related matters.

The section has received approximately 440 informal complaints, and of this number approximately 75 percent have been adjusted. These complaints have been received in an ever-increasing number during recent months; for example, 100 of the total number above mentioned have been received since September 1, 1936.

The section also has handled approximately 15,000 written inquiries since its organization. These inquiries, in the main, have related to legal questions and administrative interpretations.

Approximately 50 letters and memoranda from members of the field organization requesting information and opinions in connection with problems presented to the district directors and supervisors are being handled daily.

The section has now reached the point in its organization, and in the organization and functioning of joint boards, where a maximum number of hearings can be set down. There are presently being assigned for hearing 300 cases per month. This means that at least one joint board representative from each State commission is engaged in this work at all times and that our limited number of examiners is kept constantly engaged in hearing those cases which are not required to be referred to joint boards. As aforesaid, an examiner is also present at all hearings conducted by joint boards. We had hoped to double the above number of hearings within the near future so that we might keep abreast of the large and increasing volume of work to be handled in this section, although this would have meant calling upon various State commissions for the full-time services of at least two of their members or employees; but unless we can obtain the funds and authority needed to employ additional examiners and additional clerical and stenographic forces, it will be impossible to do this. With its present personnel the Section of Complaints can do only a part of the work which has been planned for it.

SECTION OF FINANCE

Under the provisions of section 213 of the act, motor carriers desiring to consolidate, merge, purchase, or lease the properties of

other motor carriers, or acquire control thereof, must first secure our approval. This is also necessary when a carrier other than a motor carrier is the acquiring party. We have issued rules and regulations and prepared forms relating to applications for our approval of such unifications. This work is handled in the first instance by the Section of Finance. One hundred and twenty-two applications of this character have been filed with that section, 118 applications have been docketed, hearings have been held on 79, and 15 additional applications are set for hearing.

Under the provisions of section 214, a motor carrier desiring to issue securities or assume liabilities in excess of $500,000 must first secure our approval. The Section of Finance likewise handles these matters. Eleven applications for the issuance of securities or assumption of liabilities in excess of $500,000 have been filed. We have issued reports and orders on five of these applications. Two we approved unconditionally and three were approved with conditions which, in our judgment, afforded better protection to the public.

We have assigned, also, to this section all questions involving the substitution of new parties in interest in lieu of applicants for certificates and permits. It frequently happens that a common carrier files an application for a certificate, or a contract carrier for a permit, and later sells its equipment and rights under the application to a new party. The purchaser then requests that his name be substituted for that of the original applicant.

We have received 405 applications of this type, all of which have been docketed, 253 have been disposed of, 51 are under consideration, and 101 such applications are being held for additional information.

We observe a marked tendency in the industry toward unification. Under the provisions of section 213 we are required to find that each such unification is consistent with the public interest, and it therefore will be necessary for us to watch this situation closely. We anticipate that the work of the Section of Finance will continue to increase because of this trend toward unification.

In *Pennsylvania Truck Lines, Inc., Application*, decided October 8, 1936, we had occasion to consider the provisions of section 213 with respect to consolidations, mergers, or acquisitions of control where the applicant is a carrier other than a motor carrier, or a company controlled by or affiliated with such a carrier other than a motor carrier. The Pennsylvania Truck Lines, Inc., being controlled by the Pennsylvania Railroad Co., came within the latter category. In such a case, section 213 provides that we shall not give our approval unless we find "that the transaction proposed will promote the public interest by enabling such carrier other than a motor carrier to use

service by motor vehicle to public advantage in its operations and will not unduly restrain competition." We said:

It is the obvious intent of the Act that special safeguards shall surround acquisitions of motor carriers by carriers engaged in other forms of transportation, and no doubt railroads were particularly in mind. The proof in such cases must show, not merely that what is proposed is *consistent* with the public interests, but that it will actively *promote* the public interest and in a particular manner, namely, by enabling the acquiring carrier "to use service by motor vehicle to public advantage in its operations." The proof must further show that the acquisition will not "unduly restrain competition."

In view of these provisions, one of the conditions which we attached to the desired acquisition by the Pennsylvania Truck Lines, Inc., was that the service to be rendered by the latter "be confined to service auxiliary to and supplementary to that performed by the Pennsylvania Railroad Co. and in territory parallel and adjacent to its rail lines."

SECTION OF ACCOUNTS

Section 204 (1) of the act authorizes us to establish reasonable requirements with respect to uniform systems of accounts, records and reports, and preservation of records. We have issued, by order dated September 15, 1936, regulations relating to the preservation of records, and that order is now in effect.

The Section of Accounts has prepared and submitted to us its recommendations concerning uniform systems of accounts, records, and reports—one for motor carriers of passengers and the other for motor carriers of property—and these recommendations are now pending before us for approval. The proposed classifications of accounts were drafted after numerous conferences with representatives of the State commissions and of the motor carriers.

SECTION OF LAW AND ENFORCEMENT

This section is divided into two branches, namely, the law branch and the enforcement branch. The law branch is engaged in the investigation of questions of law that arise in the construction of the act and furnishing opinions upon such points to the other schedules of the Bureau and to us; in advising to the preparation of rules, regulations, and forms required by the provisions of the act; in the preparation of orders to be issued by us; in the preparation of proposed administrative rulings to be issued by the Bureau, and memoranda supporting such rulings; in giving advice to those handling correspondence in connection with questions of law that arise in correspondence; and in a comprehensive study of the act embracing its legislative history, its construction and interpretation, and similar history and interpretation of corresponding State statutes.

Pending the organization of a review board this branch also is reviewing many of the proposed reports and orders submitted and prepared by joint boards and examiners.

The enforcement branch deals with violations and alleged violations of the act. These are investigated by correspondence, by means of special agents, and also by the Bureau's field force. Investigations conducted by either special agents or the field force are reported in detail in writing, which reports, together with all other data, are analyzed by the attorneys of the branch for the purpose of determining and recommending appropriate steps to be taken in securing voluntary compliance with or enforcement of the act.

As of the present date, the condition in respect to complaints is substantially as follows:

Complaints received	2,949
Complaints investigated	795
Complaints under investigation	955
Complaints still in correspondence stages	1,199

Many complaint cases have been closed when voluntary compliance by the carrier has been secured. We have made every effort to secure such voluntary compliance with the law. When complaints are filed we frequently correspond with the carriers concerning such complaints and also have representatives of the Bureau call upon them personally.

Of the nearly 3,000 complaints made, about 332 have been closed or dismissed for various reasons. Of the 332 dismissed, 87 were so treated because we were successful in securing voluntary compliance on the part of the carriers. Two hundred and forty-five were dismissed because of insufficiency of the ground of complaint. Efforts of the field force are also directed toward securing voluntary compliance where possible, and this has been done successfully in countless cases.

We have recommended to the Department of Justice criminal prosecution in three cases where the proof shows a clear and intentional violation of the law and have recommended injunction proceedings in four such cases. In numerous other cases court action will probably be recommended in the very near future. Great care is exercised in recommending prosecutions, so that we may be assured that the violations are intentional and can be stopped in no other way.

Manifestly vigorous enforcement of the act is essential to its successful administration. There is a strong public expectation of benefit from the establishment of safety regulations. Responsible operators in the industry are expecting relief from recognized evils in respect to chaotic rates and unfair competition. No police force has been created for the detection and apprehension of violators, and we do not now recommend the creation of such a force. But we

do recognize that for adequate enforcement we shall have to depend in large part on the willingness of the industry to police itself by reporting violations to us and also upon the cooperation of other branches of the Government and of State commissions and officials. Steps have already been taken to enlist this cooperation and have met with cordial and gratifying response. The customs branch of the Treasury is reporting operations observed which seem to be in foreign commerce. The National Safety Council has already assisted in the collection of data regarding safety measures. State commissions are reporting conditions to our field forces. Information as to violations is coming in from operators anxious to assist regulation.

SECTION OF SAFETY

Under the provisions of section 204 of the act, we are authorized to establish reasonable requirements with respect to qualifications and maximum hours of service of employees and safety of operation and equipment of common carriers and contract carriers by motor vehicle, and also of private carriers, if need therefor be found. The Section of Safety, after a comprehensive study of the subject of safety of operation and equipment and numerous conferences with representatives of the carriers, State authorities, and others well informed on the subject, prepared and issued, on July 1, 1936, tentative initial regulations relating to this matter, together with an outline of the entire program ultimately to be proposed. This draft was circulated extensively throughout the industry and to other interested parties for criticism, and a hearing was held before us beginning September 16, 1936, and lasting 3 days. A digest of the written criticisms was submitted of record and much testimony was taken.

Upon the request of motor carriers on the Pacific coast, further hearings on this subject were set at Portland, Oreg., on October 29, 1936, and at Los Angeles, Calif., on November 2, 1936. As soon after the hearings as possible the section will analyze the criticisms and recommendations received and submit to us a final draft of the proposed regulations. It is expected that we shall be able to promulgate these initial regulations before the first of the year.

We have set for hearing in Washington, beginning November 19, 1936, the question of the qualifications and maximum hours of service of employees for motor carriers of passengers. Later it is contemplated that hearings will be held on maximum hours of service of employees for motor carriers of property. This subject is an important and difficult one which will require the most thorough and careful consideration, but the proceedings will be pressed to a conclusion as early as adequate consideration will permit.

The country is most vitally concerned in safety of operation and equipment for highway automotive vehicles in general, because of the staggering number of accidents involving loss of life or limb or damage to property for which they have been responsible in recent years. We have authority to deal with this matter only so far as motor carriers engaged in interstate or foreign commerce are concerned, but this authority extends, unlike other provisions of the Act, not only to common and contract carriers of passengers and property, but also to private carriers of property. Special administrative difficulties will be encountered in dealing with the latter class of carriers, and for that reason we are proceeding first with the common and contract carriers. We recognize, however, our duty, so far as need therefor is found, to establish regulations covering the private carriers of property as well, and the importance of that duty.

Many State and municipal authorities are also dealing, and often very effectively, with this matter of safety of operation and equipment. We thoroughly appreciate the need for close cooperation with these authorities in this work and are consulting them at every stage of our procedure. We have found them ready and willing to cooperate in every way, to our great benefit. It has been found, also, that the need is generally recognized for greater uniformity in safety regulations, and it seems to be the common opinion that any action which we may take, under the provisions of the act with respect to safety, will greatly promote this desirable end.

FIELD ORGANIZATION

From the outset we recognized that if our administration of the Motor Carrier Act is to be as successful as it should be, a program of education would have to be established and consistently pursued for some time to come. The motor carriers to a large extent have been unregulated, or only partially regulated, and many of them are small operators unaccustomed to control and even to the keeping of accurate records and not at all well equipped to respond readily to the requirements of regulation. Many of these little operators are also financially unable to employ lawyers to come to Washington or to come themselves. For these reasons we concluded that we must have, in large centers, a field force which would be readily available to the industry for the purpose of explaining and instructing the carriers as to the provisions of the law and our requirements thereunder, and also for purposes of enforcement. We therefore established field offices in 16 districts and placed in charge of each district an experienced man known as a district director. Under him are district supervisors, who also are experienced in the motor-transportation industry and who are available at all times to give necessary help

and instruction to carriers subject to the act. At each district office we have further established a tariff section in charge of a competent rate man, so that full information as to rates is available, and it is contemplated that when the uniform systems of accounts have been prescribed, and if our appropriation permits, each office will include an expert accountant.

The necessity for selecting these district directors and supervisors from civil-service registers obtained as a result of competitive examinations delayed their appointment for some months, but the field offices are now established and in charge of competent personnel. There are, in all, 16 directors and 90 supervisors. Most of the latter have from 1,000 to 1,500 motor carriers subject to their attention, and those that have a lesser number are located in districts where they have a large amount of territory to cover. We are advised by both motor carriers and shippers that these field representatives are proving very helpful to all concerned. They are also being used to great advantage in the enforcement work and in checking the applications for certificates and permits under the "grandfather" clause.

In addition, the Director of the Bureau and its section chiefs have held frequent conferences throughout the country with various associations and groups, and their constant effort is to explain the aims and purposes of the act and the regulations and help the industry to conform to the requirements. We are glad to report that we are receiving and expect to continue to receive hearty cooperation from the industry.

GENERAL COMMENTS

As we have pointed out under the heading, "Section of Certificates and Insurance", a huge number of applications have been filed with us by motor carriers subject to the act. We are aware of the fact that not all of the motor carriers engaged in interstate commerce have as yet filed applications for certificates of public convenience and necessity or permits, and that not all who have filed applications have complied fully with the requirements of the law, such as the filing of tariffs and schedules or contracts. To compel all motor carriers subject to the act to comply with the provisions thereof will require extensive investigations in the field, and we shall proceed with this work as promptly as our limited force permits.

One of the heaviest detailed burdens of the Bureau is the voluminous correspondence which is necessary. It receives in excess of 600 letters per day. Many of the letters require careful consideration by our legal staff before they may be answered, and all require prompt attention. While the burden is great, we feel the necessity

of making full and careful replies to all inquiries concerning the act and our rulings thereunder.

At the present time the Bureau employs a total of 653 persons, of which number 452 are in Washington and 201 in the field.

APPROPRIATION

Our original estimate of the appropriation reasonably required to carry out the provisions of the Motor Carrier Act, 1935, during the fiscal year beginning July 1, 1936, was $3,100,490. The amount appropriated was $1,700,000, or a reduction of approximately 45 percent. The thought back of this drastic reduction, as expressed during the hearings before the House subcommittee and on the floor of the House, was that by experience only could our needs be determined and that if the funds appropriated proved inadequate for reasonable administration of the act we could again appeal to the Congress. The chairman of the Senate subcommittee expressed the same thought. The thought was also expressed that, owing to the necessity of civil-service procedure, it would be impossible for us to build up an organization within a period in keeping with our estimate of appropriation required.

It is true that at the time of our original submission we were forced to estimate the amount of work which would be necessary successfully to administer the act. At this time we have definite information as to what confronts us, and, based upon that knowledge, a supplemental estimate was prepared and submitted to the Bureau of the Budget showing that an additional appropriation in the amount of about $1,300,000 would be required for the current year.

The plan of organization has not been changed from that contemplated in the original estimate, although it has been found necessary to supplement the plan to take care of actual needs as they have developed.

In considering this matter a few general considerations should be borne in mind:

First. The plan of regulation contemplated by the Motor Carrier Act is both comprehensive and complete. Briefly, it embraces authority to operate for various classes of carriers and brokers, regulation of rates, fares, charges, discriminations, preferences, consolidations and other unifications, insurance and other forms of public protection, matters of safety and hours of service, accounts, identification, adequacy of service of common carriers, and the like.

Second. These various fields of regulation are to a large degree interdependent. In the case of most of them no substantial progress can be made without proceeding as well with some or all of the others. For example, in the regulation of rates progress will be retarded until progress likewise has been made in the matter of

accounts of the carriers whose rates are to be regulated. As a further example, little progress can be made ultimately in any of the fields unless there is effective and efficient enforcement as to all.

Third. One of the main difficulties has to do with the type of person who constitutes the average motor carrier. In the main, he is a small operator; he is not educated as to regulation and does not readily recognize his responsibilities under the law. He requires not only the ordinary regulatory attention but also education, instruction, cooperation, explanation, adjustment, and detailed individual treatment.

Fourth. With the establishment of the field staff, the work of all of the other sections of the Bureau is materially increasing. This increase will doubtless continue and be continuingly reflected in added duties and responsibility of the departmental organization.

Fifth. The facts of the industry itself are important. There have been filed with us approximately 80,000 applications for authority under the "grandfather" clauses of the act. How many other carriers there are who are subject to the act and are entitled to "grandfather" rights but who did not file applications is yet unknown, but it is certain that there are a large number of such carriers.

In addition to the "grandfather" cases, applications for authority to continue or institute operations or extensions are constantly being filed. About 5,000 of these have been filed since October 15, 1936, and they are being filed at the rate of about 10 per day. Public hearings are required in all such cases.

As to the requirements covering applications for certificates, permits, and licenses, we had little discretion as to when they should become effective. The same was true as to the requirements covering tariffs and schedules, and as to consolidations, mergers, and acquisitions of control. The requirements as to these matters are specifically set out in the act, and we could not postpone the effective date of any of them beyond April 1, 1936. It was imperative, therefore, that we establish first those sections of our organization which were to deal with such provisions. On the other hand, there are parts of the work, such as research and statistical work and certain details of the safety and accounting provisions, which have not been undertaken but which are essential if the administration of the act is to be a success and the purposes of the legislation accomplished. To do this it is imperative that additional funds be made available.

Sixth. In various respects the work under the act begins with a peak at the very outset and in all probability will thereafter diminish. It is highly important, however, that we be organized and equipped to handle this peak effectively and promptly. Otherwise "log jams" will result in certain sections which it will be very difficult to break up and remove. In certain parts of the work there is serious danger of such congestion at this moment.

To illustrate the statement that in many cases the peak of the work comes at the start, this is plainly true of the applications for certificates and permits under the "grandfather" clause, of which about 80,000 are pending. Applications for new operations and extensions have been and will be filed in considerable number, but never again will 80,000 be filed to be dealt with at one time. This is also true of the tariffs and schedules, of which 40,000 were initially filed. There will be continual changes in these publications, but never again will 40,000 be filed at one time, to be docketed, recorded, and checked. The same will be true of the initial work in connection with the establishment of uniform systems of accounts. It is also true of the enforcement work, of the legal work in connection with the construction and interpretation of the act, of the correspondence work, and of the work required in responding to the inquiries of callers. In addition, at the outset, the early cases all involve new principles and because of their importance as precedents require unusual care in their consideration and in the preparation of reports and orders.

Seventh. The situation in the motor-carrier industry when the act became effective was no less than chaotic. The years of depression had materially increased the number of motor carriers, particularly carriers of property. With an increasing number of carriers, competition became intense, resulting in rate wars, widespread evasion of State regulations, destructive practices of various kinds. The whole structure of the industry was weakened. Business mortality among such carriers, predominantly small operators, was high. Highway accidents had become a national problem. All of those things required and still require quick action. The work necessary to reasonable administration should go forward without delay if the main purposes of the legislation are not to fail.

There is a growing feeling upon the part of the many carriers who are making a sincere effort to comply with the law that they must be protected by adequate enforcement of the law as it affects those who are now evading its provisions. This viewpoint is sound and well recognized by us. Without a further appropriation for the current year, however, we are unable to do all that should be done in this respect, nor shall we be able to handle the other work as expeditiously as the welfare of the public and the motor-carrier industry demands.

In conclusion, we are convinced that the Motor Carrier Act, 1935, establishes a sound and workable system of regulation for motor carriers, and while there are certain provisions that might well be strengthened or clarified, we do not feel that we should recommend amendments to the act until we have had a longer experience in its administration.

BUREAU OF SAFETY

A more detailed report of this Bureau is published as a separate document.

Except as otherwise specified, the report here made is for the year ended June 30, 1936.

ACCIDENT STATISTICS

Casualties on steam railroads in connection with the operation of trains during the calendar year 1935 are summarized as follows:

Class of persons	Number of persons killed	Number of persons injured
Trespassers	2,643	2,690
Employees	466	6,762
Passengers on trains	18	1,872
Travelers not on trains	7	68
Persons carried under contract	3	237
Other nontrespassers	1,752	4,962
Total	4,889	16,591

The corresponding totals for the calendar year 1934 were 4,652 killed and 16,446 injured.

In addition, there were 218 persons killed and 11,489 injured in nontrain accidents, in comparison with 227 killed and 12,185 injured in such accidents during the preceding calendar year.

Steam railroads carried 446,170,000 passengers 18,479,794,000 miles; there were 18 fatalities to passengers on trains, or an average of 1 for each 1,026,655,222 miles traveled.

There were 16 employees killed and 264 injured in coupling or uncoupling locomotives and cars, as compared with 17 killed and 254 injured during 1934. Sixteen employees were killed and 131 injured due to coming in contact with fixed structures, and 22 employees were killed and 1,380 injured in getting on or off cars and locomotives.

Further discussion of the nature and causes of casualties will be found under Investigation of Accidents.

SAFETY APPLIANCES

Seventy cases of violations of the safety appliance laws, comprising 111 counts, were transmitted to United States attorneys for prosecution; cases comprising 251 counts were confessed and 12 dismissed. Of the four counts awaiting decision by district courts last year, one was decided in favor of the Government and three are still awaiting decision. One case pending before the Supreme Court on a writ of certiorari was decided in favor of the Government. On June 30, 1936, there were pending in the various district courts 69 cases containing 123 counts.

In *United States* v. *California* (297 U. S. 175) the State of California owned and operated the State Belt Railroad in San Francisco. Suit was brought against the State in the district court, charging a violation of the safety appliance acts.

The State claimed it was not a common carrier engaged in interstate commerce, that the safety appliance acts did not apply to a sovereign State, and by virtue of the State being the defendant the district court did not have jurisdiction. The district court overruled these contentions and entered judgment for the Government. The circuit court of appeals reversed the lower court, holding that the district court did not have jurisdiction (75 Fed. (2d) 41). In reversing the circuit court of appeals the Supreme Court held that in the operation of the State Belt Railroad the State of California was a common carrier engaged in interstate commerce by railroad, subject to the requirements of the safety appliance acts, and that suit to recover penalty for violation of those laws was properly brought in the district court.

Approximately 1,343,000 cars and locomotives were inspected. The number of safety appliance defects per 1,000 cars and locomotives inspected was 28.68. The corresponding figures for the preceding year were approximately 1,332,700 inspected and 26.02 defects per 1,000 inspected.

During the year attention has been devoted to a number of matters which affect the safety of railroad employment and travel, including the following:

1. Conversion of freight brake equipment to conform to present standards; improvements in design, construction, and maintenance of brakes; and adjustment of braking ratio.
2. Tests of automatic train pipe connectors.
3. The need for reduction of free slack in draft gears.
4. The dangers inherent in the arch-bar type of car trucks, the necessity of eliminating trucks of this design from service and for special protective measures until this elimination is effected.
5. Safety questions affecting the operation of streamlined, lightweight, high-speed trains.

HOURS OF SERVICE

Hours of service reports were filed by 841 railroads, of which 633 reported no instances of excess service. The remaining 208 railroads reported a total of 8,733 instances of excess service as compared with 4,467 reported by 182 railroads for the preceding year, an increase of 26 railroads reporting excess service and an increase of 4,266 in the total number of instances of excess service reported. The reports of the carriers indicate that this increase is due principally to

high water, adverse weather conditions, sickness of employees, and wrecking and relief service.

Three cases of violation of the hours-of-service law, comprising 10 counts, were transmitted to United States attorneys for prosecution. Cases comprising 15 counts were confessed and 1 count was dismissed. On June 30, 1936, there were pending in the district courts 2 cases containing 10 counts.

SIGNALS AND TRAIN CONTROL

On June 30, 1936, there were equipped with automatic train-control devices 8,193.7 miles of road, 15,154.7 miles of track, 5,543 locomotives and motor cars; in addition there were 2,283.3 miles of road, 5,073.5 miles of track, 3,582 locomotives and motor cars equipped with automatic cab signals without automatic train-control devices. The total equipment of automatic train-control and cab-signal devices comprised 10,477 miles of road, 20,228.2 miles of track, and 9,125 locomotives and motor cars.

Three cases of violations of orders of the Commission requiring installations of automatic train-control devices, containing five counts, were transmitted to United States attorneys for prosecution. Two cases containing four counts were confessed and one case containing one count is pending.

BLOCK SIGNAL STATISTICS

According to returns submitted by the carriers covering block-signal statistics as of January 1, 1936, 109,392.9 miles of road and 142,573.0 miles of track were operated under the block system, of which 62,828.8 miles of road and 93,401.5 miles of track were equipped with automatic block signals and 46,564.1 miles of road and 49,171.5 miles of track were operated under the nonautomatic block system. During the calendar year 1935 there was an increase of 24.8 miles of road and a decrease of 68.2 miles of track equipped with automatic block signals and a decrease of 999.1 miles of road and 1,136.8 miles of track in nonautomatic block-signal mileage, the total decrease in block-signal mileage during the year being 974.3 miles of road and 1,205.0 miles of track.

INVESTIGATION OF ACCIDENTS

We investigated 84 train accidents, of which 35 were collisions and 49 were derailments. The collisions resulted in the death of 44 persons and the injury of 460 persons; the derailments resulted in the death of 88 persons and the injury of 288 persons, a total of 132 killed and 748 injured. A detailed report concerning each accident

is made public when completed and summaries of these reports are published quarterly.

Among the accidents investigated were nine involving motor vehicles at highway grade crossings, three caused by broken rails, one caused by a damaged switch, and one in which the cause was not definitely determined. These 14 accidents, which resulted in the death of 31 persons and the injury of 121 persons, have not been classified. The remainder of the accidents investigated are divided into four groups, the following table showing the groups and the number of accidents in each.

Accidents investigated

Group	Number of accidents	Number of persons killed	Number of persons injured	Probably preventable by train stop or train control			Possibly preventable by block signals; preventable by train stop or train control			Not preventable by block signals, train stop, or train control		
				Number of accidents	Number of persons killed	Number of persons injured	Number of accidents	Number of persons killed	Number of persons injured	Number of accidents	Number of persons killed	Number of persons injured
1. Derailments	38	59	180	------	------	------	------	------	------	38	59	180
2. Collisions in automatic-signal territory	9	7	325	4	4	257	------	------	------	5	3	68
3. Collisions in nonautomatic-signal territory	2	----	7	1	------	3	------	------	------	1	------	4
4. Collisions in time-table and train-order territory and yards	21	35	115	------	------	------	13	28	101	8	7	14
Total for year ended June 30, 1936	70	101	627	5	4	260	13	28	101	52	69	266
Totals for years ended June 30—												
1935	58	80	855	7	7	221	12	15	126	39	58	508
1934	73	123	726	3	12	255	26	17	118	44	94	353
1933	50	58	337	5	5	39	16	24	104	29	29	194
1932	52	74	517	7	7	35	13	23	172	32	44	310
1931	58	83	682	4	1	170	19	29	159	35	53	353
1930	101	128	1,406	8	8	64	38	50	522	55	69	820
1929	90	132	1,171	12	15	116	37	54	572	41	63	483
1928	72	126	896	11	18	74	21	42	472	40	66	350
1927	70	174	1,151	10	13	321	19	45	318	41	116	512
1926	104	192	1,611	15	40	246	29	45	594	60	107	771

The number of preventable accidents as indicated by this table, and the number of persons killed and persons injured in such preventable accidents, represent 21.4, 24.2, and 48.3 percent, respectively, of the total number of accidents investigated, persons killed, and persons injured.

GRADE CROSSINGS—RAILWAY WITH HIGHWAY

During the calendar year 1935 there were 3,933 accidents at highway grade crossings, which resulted in the death of 1,680 persons

and the injury of 4,658. Automobiles were involved in 3,504 of these accidents, 1,442 persons being killed and 4,434 injured. There were 72 derailments of trains as a result of collisions between trains and automobiles, which caused the death of 48 persons and the injury of 128. Of the total casualties resulting from grade-crossing accidents, 20 killed and 136 injured were railroad passengers, employees, and persons carried under contract. Information concerning accidents of this character, together with comparable statistics for the 2 preceding years, and the number of crossings, railway with highway, is shown in the following tables:

Accidents at highway grade crossings, years ended Dec. 31, 1933, 1934, 1935

	1933			1934			1935		
	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured	Number	Number of persons killed	Number of persons injured
Accidents at highway grade crossings	3,236	1,511	3,697	3,728	1,554	4,300	3,933	1,680	4,658
Accidents at highway grade crossings involving automobiles	2,853	1,305	3,496	3,317	1,320	4,099	3,504	1,442	4,434
Derailments of trains as a result of collisions between trains and automobiles	29	13	24	49	47	57	72	48	128
Miscellaneous train accidents as a result of collisions between trains and automobiles	94	51	56	115	65	60	106	76	74
Automobiles registered	23,827,290	-------	-------	24,933,403	-------	-------	26,221,052	-------	-------
Railroad casualties:									
Passengers	----------	-------	3	----------	-------	15	----------	0	54
Employees	----------	10	42	----------	17	73	----------	20	73
Persons carried under contract	----------	-------	-------	----------	1	8	----------	0	9
Total	----------	10	45	----------	18	96	----------	20	136

Crossings, railway with highway

Year ended Dec. 31—	Number at end of year	Number actually added and eliminated during the year		Net increase	Net decrease
		Added	Eliminated		
1935	234,231	887	2,071	----------	1,184
1934	234,820	999	2,109	----------	1,110
1933	235,827	788	2,029	----------	1,241
1932	237,035	815	1,447	----------	632
1931	238,017	1,265	1,664	----------	399
1930	240,673	1,848	1,984	----------	136
1929	242,809	1,945	1,397	548	----------
1928	240,089	2,068	1,204	864	----------
1927	236,283	1,909	1,391	518	----------
1926	235,158	1,876	1,254	622	----------

Progress has continued in the elimination of railroad and highway crossings at grade. As shown by reports of the carriers, during the calendar year 1935, 2,071 grade crossings were eliminated; however, in the same period 887 grade crossings were added, the net reduction being 1,184. The total number of crossings of this character at the end of the year was 234,231.

EXAMINATIONS OF DEVICES

Plans of 33 devices designed to promote the safety of railway operation were examined by our engineers and reports thereon transmitted to the proprietors.

MEDALS OF HONOR

The act of February 23, 1905, United States Code, title 45, sections 44–45, authorizes the President to bestow bronze medals of honor upon persons who, by extreme daring, endanger their own lives in saving, or endeavoring to save, lives from any wreck, disaster, or grave accident, upon any railroad within the United States engaged in interstate commerce. During the past year three applications for award of medals as provided in this act were filed, one of which is pending, one was denied, and award in the other case being made as follows:

To Fred G. Wolff, employed by the Chicago & North Western Railway, who saved the life of an express messenger, who was caught in a burning car, near Pecatonica, Ill., on July 2, 1935.

Since the passage of this act 67 applications have been filed, of which 42 have been approved, 24 denied, and 1 is pending.

BUREAU OF SERVICE

The scope and functions of the Bureau of Service have been described in our previous reports.

Since our last report it was found necessary to exercise our emergency powers in the three following instances—service order no. 56, issued March 21, 1936, recognized the interruption of traffic by reason of flood conditions in certain New England States and directed carriers by railroad therein to forward traffic by routes most available to expedite its movement. This order was vacated on April 17, 1936. Service order no. 57, issued March 25, 1936, authorized and directed the Pennsylvania Railroad Co. to furnish adequate transportation service over the line of what was formerly the Washington, Baltimore & Annapolis Electric Railway between Odenton, Md., and the Southern Maryland Agricultural Association race track near Bowie, Md. Service order no. 58, issued June 17, 1936, authorized and directed the Chicago, Rock Island & Pacific Railway Co.,

until September 30, 1936, to furnish adequate transportation service over the 2 miles of line of what was formerly the Minneapolis & St. Louis Railroad between Greenville, Iowa, and the point of crossing said line by the Chicago, Rock Island & Pacific Railway Co.

During the year the Bureau conducted hearings, completed reports, or otherwise participated in the disposition of the following formal cases relative to car service or operating practices: *Ex Parte 104, Part II, Practices of Carriers Affecting Operating Revenues or Expenses—Terminal Services* (209 I. C. C. 11)—15 supplemental reports. Numerous supplemental reports in *Ex Parte No. 104, Part II*, were attacked in the courts. The Bureau assisted the office of the chief counsel in preparing the defense of those cases in various courts. *Ex Parte 104, Part VI, Propriety of Operating Practices—New York Warehousing* (198 I. C. C. 134)—report on further hearing (216 I. C. C. 291) and since reopened for reargument. Docket No. 24049, *Johnston* v. *Atchison, T. & S. F. Ry. Co. et al.;* Docket No. 24050, *Johnston* v. *Atlantic Coast Line R. Co.* (190 I. C. C. 351), subsequently reopened for further hearing; I. & S. Docket 4072, *Terminal Allowances at Ashland, Ky.* (213 I. C. C. 603); *Kansas City S. Ry. Co.* v. *Louisiana & A. Ry. Co. et al.* (213 I. C. C. 351); *Puget Sound—Portland Joint Passenger-Train Service* (218 I. C. C. 239); Docket No. 27365, Freight Forwarding Investigation; and Docket No. 27266, Lake Coal Demurrage.

Many informal matters and complaints falling within the scope of "car service" as defined in section 1, paragraphs (10) to (17) of the act, were brought to our attention directly or through our service agents. Such matters received prompt attention, many being handled by the latter in the field by direct contact with the parties.

During the year the adjustment informally of numerous demurrage disputes has satisfactorily disposed of a number of cases which but for such handling doubtless would have resulted in formal complaints with their greater expense of time and money for all concerned.

The Bureau also cooperated with the organization of the Federal Coordinator of Transportation in working out with the Association of American Railroads a comprehensive plan for more satisfactory and complete supervision of the application of the National Code of Demurrage Rules throughout the country; a matter of importance to shippers and carriers alike. Like assistance was given in connection with the development and expansion of the Container Bureau of the Association of American Railroads; standardization of containers used in the transportation of fruits and vegetables and estimated weights applicable thereto; wharfage, dockage, and handling charges at ports; and, consolidations of terminals.

The Bureau cooperated with the Bureau of Inquiry in making field investigations in connection with the Car Forwarding Investigation (Docket No. 27365).

Both freight-car supply and the condition of the equipment was discussed in our last report. There has been no net improvement during the year. With the improvement in business conditions came an increasing demand for freight cars. Our representatives in the West and Northwest report that a day-to-day situation exists with respect to the supply of large cubical capacity boxcars and boxcars for high-class loading such as finished lumber. Western carriers state that their cars are not being returned. An increasing demand for open-top cars for coal loading has resulted in sporadic shortages. Withdrawal of open-top cars from promiscuous use on foreign lines by order of the Car Service Division of the Association of American Railroads; reduction in the number of cars under load with unbilled coal; increased repairs to cars in bad order; and the expedited movement of loaded and empty cars of this description will tend to relieve the situation. Close watch of the situation is being kept through our field forces and contacts with carriers.

Between November 1, 1935, and October 31, 1936, surplus box cars decreased from 133,918 to 64,589 cars, a difference of 69,329 cars or 51.8 percent. Surplus gondola, coal, and coke cars declined from 61,408 to 17,119 cars, a difference of 44,289 cars or 72.1 percent. For all freight cars the surplus decreased from 232,688 to 111,533, a difference of 121,155 cars or 52.1 percent. During the same period freight-car ownership declined from 1,842,122 to 1,762,028, a difference of 80,094 cars, 4.4 percent. During that period 35,344 new units of railroad-owned freight cars were added.

In our report for the year 1935 we mentioned the inauguration of an average per diem plan for boxcars, under which settlement for such cars on foreign rails is upon a basis of the average detention per car for the corresponding month in a 3-year test period. One object of the plan is a reduction in the ratio of empty to loaded boxcar mileage. According to the proceedings of the May 1936 meeting of the Association of American Railroads, Division II—Transportation, the carriers themselves are divided as to the desirability of the plan, particularly from the point of view of western originating lines. Further factors being questioned are those of the effect of the plan upon the maintenance of boxcars and a disturbance of car-hire balances. As a result, the whole matter is being studied by the carriers under the auspices of the Car Service Division of the Association of American Railroads. The extent to which the working of this plan may have affected the shortage of boxcars, mentioned above, has not been determined.

Reference was made in our previous report to the informal complaints and petitions concerning Great Northern Railway livestock schedules to Chicago. Many physical improvements were made at loading and feeding points along the line as a result of our investigations and conferences. Service agents were stationed on the line during the shipping season in August and September of the current year. They reported greatly improved schedules which permit cattle to reach Chicago markets with the minimum number of stops for feed and rest en route, as urged by the complainants of a year ago.

No country-wide embargoes were placed during the year. Local embargoes due to floods, strikes, and seasonal conditions were placed as needed.

Our regulations for transportation of explosives and other dangerous articles are revised from time to time in order to meet changing conditions and new commodities. Five amendatory orders were issued in 1936. A general revision to include all approved modifications is being prepared.

Procedure employed for several years, under which periodical consideration is given accumulated petitions for changes in the regulations, was successfully followed. This procedure promotes agreement among all interested parties and facilitates disposal of petitions. Emergency proposals have special consideration.

Arrangements were made with the Board of Railway Commissioners for Canada for interchangeable use in Canada and this country, of containers bearing either Canadian or Interstate Commerce Commission marking, thus facilitating movement of articles and effecting saving in container costs.

An understanding was reached with the Department of Commerce with respect to the application of the prohibitions of 4472, Revised Statutes, covering the transportation of dangerous articles moving by water.

Our regulations applying to the transportation by common carriers engaged in interstate or foreign commerce by water of explosives and other dangerous articles state in general terms what precautions must be taken for the prevention of accidents in connection with shipments made in bulk in tank vessels. Regulations are under consideration by the Department of Commerce that are in more detail and broader in scope than ours. A relatively small proportion of carriers engaged in this traffic are subject to our regulations.

The United States Coast Guard under recent legislation is understood to have certain duties in connection with the prevention, detection, and suppression of violations of laws and regulations of the United States, including our regulations applying to transportation by water. Understanding was reached with the Coast Guard that

all possible assistance will be rendered by us in the prosecution of cases arising under the transportation of explosives act.

At last report fusion welding was permitted in the construction of 10 rubber-lined tank-car tanks for test purposes in the transportation of muriatic acid. This authority was extended to include tests of one two-unit glass-lined tank car for chlorosulphonic acid, 150 cars for high-pressure petroleum products, and one for nitric acid. Application is now pending for authority to further increase the number of test cars for petroleum products to 250, and thus facilitate collection of data essential to decision as to the application of fusion welding perhaps to all types of cars as petitioned for. Fusion welding in cars built under permissions already granted will be subjected to rigid examinations, and reports thereon must be made every 6 months.

Our regulations for rail, water, and highway transportation provide for reports of accidents to be made to the Bureau of Explosives. Such reports enable that Bureau to put in motion measures for safeguarding lives and property and to draft for our assistance suggested further restrictions upon the traffic. As highway carriers better cooperate in the matter of such reports, the Bureau of Explosives will be of greater assistance to us in bringing the highway regulations into line with the best practices.

Studies continue in connection with the formulation of regulations for movement of dangerous liquids by common-carrier pipe lines.

Accidents occurring in 1935 in the transportation of all explosives and other dangerous articles showed an increase of about one-third over 1934, the number of persons killed increased somewhat, and the number injured was reduced to half that of 1934. Property damage increased. Deaths and injuries continue to occur in the movement of tank cars containing inflammable liquids under substantially similar conditions and regardless of repeated warnings. In 1935 a trainman was killed while removing alcohol from a tank car too near an open-flame light; three persons, two of them boys, were found dead from suffocation at the bottom of tank cars previously containing benzol and gasoline; one person was killed through failure of a plug in the head of a tank car; and four persons lost their lives as a result of derailment of cars. Including the foregoing, the record compared to 1934 is as follows: 1934,[2] number of accidents, 1,430; killed, 6; injured, 68; damage, $342,949. In 1935, number of accidents, 1,030; killed, 9; injured, 33; damage, $519,005.

In our 1935 report it was stated through inadvertence that for the year 1934 the number of accidents by rail transportation of explosives compared to 1933 showed increase from 902 to 1,430, causing the death

[2] Corrected figures due to later reports.

of 6 persons and injury to 67, with property damage amounting to $293,825. These figures should have been reported for both explosives and dangerous articles other than explosives. Only 52 of the accidents in 1934 were caused by the shipment of explosives, there were no deaths, 10 persons only were injured, and total property loss was $65,552.

BUREAU OF STATISTICS

A list of publications regularly prepared in this Bureau was given in our last report. During the year there was added a monthly preliminary statement of operating revenues based on estimates voluntarily returned by a large proportion of the class I railways more than 2 weeks in advance of filing the regular sworn reports.

Among the changes made in the revised forms of monthly operating statistics which became effective January 1936 may be mentioned (1) elimination of mixed trains as a separate class; (2) addition of freight train-switching locomotive-miles; (3) the subdivision of passenger service between suburban and regular; (4) addition of passenger-train hours and average speed of passenger trains; (5) separation of combination car-miles from coach car-miles; (6) addition of yard switching locomotive-miles; (7) amplifying fuel statistics by showing separately Diesel fuel, gasoline, and electricity in freight, passenger, and yard services; and (8) addition of the number of unserviceable rail motor and passenger cars. These statistics are of use as bearing on the economy and efficiency of operation.

New rules for separating expenses between freight and passenger services became effective January 1, 1936. They differ from previous editions in extending the separation to cover taxes and certain rentals, to permit of stating the net railway operating income for each service, and in the substitution of relative gross ton-miles of freight and passenger trains for relative fuel consumption as a basis for dividing maintenance expenses of tracks used in common by the two classes of trains. This revision will be useful in the further development of cost of service analysis.

Mention was made in our last report of the adoption of a policy of requiring system annual reports in cases in which two or more companies are operating as one system. In various ways, such as comparing the relation of income to fixed charges or earnings to capitalization, combined reports are more instructive than are the reports of the separate companies. On the other hand, certain legal rights and obligations are covered up in system reports. The conclusion is obvious that these will be useful if required in addition to and not merely in place of the returns of individual companies. The preparation of detailed regulations for carrying this policy into effect with

respect to railways is in progress, a thorough study of the principles involved having been made during the year.

The number of annual reports filed in this Bureau for the year 1935 was 1,475, a reduction of 44 from the number for 1934. This is explained in large part by abandonments, consolidations, and the inclusion in systems of five companies formerly reporting separately.

In the year 1935 the construction of new steam railways almost ceased, and 1,974 miles were abandoned. In the 10-year period 1926–35, 4,780 miles were constructed and 12,058 miles abandoned.

The book investment of steam railways at the close of 1935, before deducting depreciation, was $26,447,000,000, a decline of $180,000,000 from the investment 1 year earlier. There was new investment during the year in additions, betterments, and extensions amounting to about $195,000,000, but the retirements exceeded the new investment.

During the year 1935, according to returns from class I steam railways, 139 new locomotives of all types were added and 1,966 were retired; 6,987 new freight-train cars were added and 109,539 were retired; and 225 passenger-train cars were added and 2,075 were retired. The equipment of private car lines is not included in these figures. The number of freight cars of private lines was 295,664 at the close of 1935, a decrease of 11,000 during the year. Of the total freight-car equipment of the country, private car ownership represents 13.9 percent.

Class I steam railways issued capital stock during the year having an aggregate par value of $2,112,862, and the retirement of stock amounted to $3,351,391. If the funded debt which matured and remained unpaid at the close of the year be included in the outstanding funded debt and not regarded as current liability, there was a net decrease of funded debt of $151,830,270 during the year, largely the result of paying off equipment obligations.

The steam railways made an especially good record in the safe carriage of passengers in 1935. No passenger was reported as killed in a collision or derailment. However, one passenger was killed by an explosion of a heater in a coach of a standing train and 17 other passengers on trains were killed in getting on or off cars or other ways not involving an accident to a train. Also, seven other travelers were killed on railway premises but not in connection with a train accident. The distinction between passengers on trains and travelers not on trains was begun regularly with returns for 1933, both groups being included as "passengers" in earlier statistics. Per billion passenger-miles, the accident death rate for passengers on trains was 0.97 in 1935, compared with 1.50 in 1934, 2.26 in 1933, and 0.77 in 1932.

Casualties to trespassers and persons at grade crossings in 1935 accounted for 85.1 percent of the 5,258 railway accident fatalities

reported in 1935. This total includes 218 nontrain accidents, 149 cases of suicide and 2 cases involving mental derangement.

The financial results of operations and changes in traffic and employment have been reviewed in a previous section of this report. A summary of selected railway statistics will be found in appendix C.

During recent depression years there has been an increased interest in transport traffic statistics and the fact has been emphasized that the present statistics are unsatisfactory because (*a*) they are not subdivided by territorial areas that are significant from the standpoint of rate-making or in the study of business conditions; (*b*) they do not show the flow of traffic from one area to another; (*c*) they do not show the average haul of each commodity class; and (*d*) because highway and water line statistics comparable with rail statistics are not available. A study is being made as to the most appropriate revision of our traffic statistics that will meet this situation.

During the year the machinery in the mechanical tabulation section has been replaced by modern equipment and the use of 90 column cards has been introduced.

In addition to routine publications, various special studies or compilations were prepared in this Bureau during the year. Among these may be mentioned the following:

Water Line Statistics, 1920–34.
Railway Tax Accruals by States, 1914–34.
Highway Grade Crossing Accidents, 1935.
Sleeping Car Statistics, 1890–35.
Selected Statistics of Large Steam Railways, 1925–35.
Number, Earnings, and Service of Clerical Employees, 1924–35.
Free Transportation Issued and Requested.
Loss and Damage Claims and Payments (Fruits and Vegetables).
Railway Labor Cost Per Unit of Traffic, 1913–35.
Review of Steam Railway Accident Statistics, 1922–35.
New Types of Lightweight Passenger Trains.
Railway Investment in Highway Transport.

BUREAU OF TRAFFIC

The functions of the Bureau of Traffic have been described in our previous reports. (See Forty-fifth Annual Report, pp. 63–64.)

Data covering particular activities of subdivisions of the Bureau during the year are shown below.

SECTION OF TARIFFS

There were filed 110,356 tariff publications containing changes in freight, express, and pipe-line rates, passenger fares, and freight

classification ratings. In addition thereto, 666 publications were received for filing, but were rejected for failure to give the notice required by the statute. Powers of attorney and certificates of concurrence filed aggregated 19,713. Applications received seeking special permission to establish rates or fares on less than statutory notice or waiver of certain of our tariff-publishing rules numbered 9,010. Specific orders were entered granting 8,094 and denying 850 of these applications. The remainder were disposed of otherwise. Correspondence relating to tariff construction in accordance with our rules and regulations promulgated under section 6 of the act consisted of 23,457 letters received and 16,434 letters written. For our own use, as well as for the use of other branches of the Government and of shippers, 3,562 rate memoranda were prepared. Our duplicate tariff file has been maintained for the use of the public.

SUSPENSIONS

Rate adjustments were protested and suspension asked in 392 instances, an increase of 40 over last year. Of these protested adjustments, 185 represented reductions, 167 represented increases, 25 represented both increases and reductions, and 15 neither increases nor reductions. They covered not only a large number of rate schedules but many thousands of rates.

The following action was taken on the requests for suspension:

Suspended (including supplemental orders)	138
Refused to suspend	164
Schedules rejected, requests for suspension withdrawn, or protested schedules withdrawn	90
Total	392
Proceedings pending from previous year	63
New proceedings on suspension docket	118
Total	181

Of this number, 134 were disposed of, a decrease of 1 under last year, 97 after formal hearing and report, and 37 through informal proceedings without report.

THE FOURTH SECTION

The number of applications was 505. The number of orders entered in response to applications was 489, of which 71 were denial orders, 192 were orders granting continuing relief, and 226 were orders authorizing temporary relief. Two hundred and twenty formal reports were issued.

Applications withdrawn, wholly or in part, after correspondence with carriers, numbered 11; and 358 applications or portions thereof were heard in fourth-section proceedings.

The number of petitions for modification of orders was 472, of which 428 were granted, 22 were denied, 1 was withdrawn, and 21 are still pending.

The only applications filed under the 1910 amendment to the fourth section which have not been disposed of involve a jurisdictional question with respect to international rates.

EXPRESS

Of the tariff publications filed, 4,240 represent changes in express rates and classification ratings. Of the applications received seeking special permission to establish rates on less-than-statutory notice or waiver of certain of our tariff-publishing rules, 62 related to express rates.

RELEASED RATES

There were filed five applications for authority, under section 20 (11) of the act, to establish rates dependent upon declared or agreed values. Of these, three were granted and two were withdrawn by the applicants. The one application pending at the time of our last report was granted. One rescinding order was entered.

BUREAU OF VALUATION

During the year the Bureau of Valuation continued its work of bringing inventories and records to late date and keeping them current in compliance with the requirements of section 19a (b) paragraph fifth (f) of the act as amended June 16, 1933. This requires that the Commission shall keep itself informed of all new construction, extensions, improvements, retirements, and all other changes in the condition, quantity, use, and classification of the property of all common carriers as to which original valuations have been made, and the cost of the additions and betterments and all changes in investment. There is further provision that the Commission may keep itself informed of current changes in cost and values, and at all times have available the information deemed by it to be necessary to enable it to revise and correct its previous inventories, classifications, and values of properties. Under this direction the Commission, through its Bureau of Valuation, has established and maintains properly checked continuous inventories and records which enable the Bureau, on short notice, to produce the standard elements of value, including original cost, reproduction cost new, reproduction cost less depreciation, land values, working capital, and corporate and financial information of individual carriers or of systems of railroads, and for designated rate districts or other groupings. As during the preceding year, the Bureau has continued to concen-

trate on those properties involved in receivership or most likely to be involved in reorganization proceedings under the Bankruptcy Act.

Under the provisions of paragraphs 11 and 13 (e) of section 77 of the Bankruptcy Act, as by the last Congress amended August 27, 1935, the Commission, in the reorganization proceedings, has called for and received reports covering the Chicago & Eastern Illinois, and the Chicago, Milwaukee, St. Paul & Pacific, and the Missouri Pacific systems. These reports cover field inspections of the properties and set forth the physical condition and deferred maintenance, if any, or physical exhaustion, together with a statement of all valuation elements. They present such information for entire systems and separately for individual operating railroads making up the systems. The physical assets covered by various mortgages, trusts, or other liens are separated and stated, together with a breakdown of the various elements of value of such encumbered properties. The Bureau is now making such a study of the Chicago & North Western system. Special reports covering the engineering field inspection of the Denver & Rio Grande Western have been prepared. Reports covering the properties of the St. Louis-San Francisco and the Chicago, Rock Island & Pacific systems have previously been made.

VALUATION OF PIPE LINES

The valuation of the oil pipe lines operating in interstate commerce is progressing as fast as possible. The original listing of such transportation companies included 52, operating 52,904 miles of trunk and 40,658 miles of gathering lines, a total of 93,562 miles of pipe lines, together with all transportation facilities from pumping stations to tank farms. Five newly constructed pipe lines have been added to the program. The field work of physical inventory and collection of original cost, accounting, land, and other data was completed within a year during the year here under review. The pricing of inventories and preparation of underlying reports and tentative valuations has been inaugurated. Under provisions of section 19a, tentative valuations must be served in each case and 30 days afforded for protest by the carrier, States, or other interested parties. In default of protest, the tentative valuation becomes final; but if protest is filed hearing must be granted.

The growth of the highly competitive oil industry and the extension of pipe lines has brought questions as to the lawfulness of rates and charges. There is now pending before the Commission a proceeding, designated Docket No. 26570—Investigation of Reduced Pipe Line Rates and Gathering Charges, for the determination of whether rates and charges are in violation of law. The Bureau is pressing the valuation work in anticipation of its possible use in this or other proceedings.

The Secretary of the Interior, in his capacity of Administrator for the Petroleum Industry, advocated valuation as one of the basic investigations in the determination of proper transportation rates and charges.

The plans include maintenance of continuous inventories and records, including original cost so that there will be available at all times the information necessary to keep valuations current. The States having great oil production, invited to cooperate in this valuation, have done so to the extent of their several abilities.

Extensive investigation has been made of depreciation and depletion and the results made available for valuation and other activities of the Commission such as the determination of annual rates of depreciation for accounting purposes.

SPECIAL WORK

Among the calls during the year the following are outstanding:

Valuation data for use as a basis for determining annual rates of depreciation for carriers, required by I. C. C. order No. 19200.

Inspection and preparation of valuation data upon the railroad docks and facilities located on the Great Lakes for presentation in a proceeding to determine proper demurrage charges.

Under Senate Resolution No. 206, for the Senate Committee Investigating the Munitions Industry, a special investigation and report was made and engineers testified as to the relative cost of constructing warships in private and Government yards, of the cost of enlargement of such facilities, and the cost to provide sufficient facilities for the manufacture of munitions.

Report of value of lands of the Chicago stockyards for the Department of Agriculture for use in determination of charges for service.

Valuation data and information regarding grain elevators at Chicago and Kansas City and of warehouses and docking facilities at Pacific, Gulf, and Atlantic ports leased by the railroads to persons and corporations.

A report on aids, gifts, grants, and donations made to railroads to promote construction.

Elements of value of Chicago terminal properties for use in the study of the consolidation of railroad terminal facilities in that district.

Valuation data for proposed "fair value" leases of railroad post offices for the Post Office Department.

Data on various railroad bridges for the War Department to be used in flood control and projects involving conservation of lands, improvements in navigation, and relocation of railroads in connection therewith; and information in regard to national defense.

Access to records by the Treasury Department which has one or more members of the Bureau of Internal Revenue staff in constant touch with the Bureau's records.

Requests from the Department of Justice for records in a wide range of litigation involving Federal aids to carriers.

There has been an increase in demand for valuation records and data from other Federal agencies as well as State, county, and municipal authorities and from private individuals. Generally they are for use by the States in taxation and freight-rate matters or prompted by public interest in reorganization of railroads under the Bankruptcy Act.

There have also been frequent demands for a fair rental value of railroad revenue and work equipment from various States, the Works Progress Administration, Public Works Administration, and the Bureau of Public Roads, in order that they might check the reasonableness of carriers' claims for compensation for the use of such equipment in grade elimination or railroad relocations due to flood-control projects. Our engineering reports and also the returns to Valuation Order No. 3 as reported by the carriers are used by representatives of States, conservation districts, and railroads for the apportionment of costs due to flood-control projects and related work.

Because of a reduction in appropriation, the personnel of the Bureau has been reduced from 301, November 1, 1935, to 243, November 1, 1936. This is having the effect of slowing up the work of the Bureau.

WORK OF LEGISLATIVE COMMITTEE

During the second session of the Seventy-fourth Congress from January 3 to June 20, 1936, our legislative committee submitted 22 reports on bills or resolutions in Congress. These reports were directed to the chairman of the Senate or House committees which requested the same and contained the legislative committee's criticisms, suggestions, and recommendations.

The bills and resolutions on which reports were made included, among others, proposals to provide for Government ownership and operation of the railroads, to amend and extend the Emergency Railroad Transportation Act, 1933, to postalize passenger fares, to regulate the consolidation or abandonment of carrier facilities, to amend the Railroad Retirement Act of 1935, to regulate the interstate transportation of natural gas by pipe line, to abolish the so-called basing-point system, to regulate the speed of motor vehicles operated in interstate commerce, several bills to promote safety in railroad operation, and several bills relative to the air mail and air commerce. None of this proposed legislation has as yet been passed by Congress.

Members of our legislative committee were also called to appear and testify before Senate and House committees in regard to several important bills affecting the Commission.

LEGISLATIVE RECOMMENDATIONS

In our last annual report we said at pages 95–97:

Reorganization of the Commission to enable it promptly and properly to discharge the additional duties imposed by the Act to Revise the Air Mail Laws, as amended, and the Motor Carrier Act, 1935, has been constantly before us during the time these acts were under consideration. Numerous suggestions and plans for such reorganization have been submitted to us and to the Congress and we have submitted reports thereon to the appropriate committees of both houses of Congress. These plans have almost without exception provided for an increase in the membership of the Commission with the increase in cost incident thereto. In our report to the respective committees on S. 1635 and H. R. 5635 we said:

"Any present increase in the number of Commissioners is unnecessary from the standpoint of efficiency in work, and should be left for consideration until after the Commission may have had experience with any new duties which have been imposed."

Substantial additional duties have been imposed by the acts above referred to, both of which are now in effect, and there remains the possibility, if not the probability, of additional duties being assigned in connection with the regulation of other forms of transportation.

In the light of the additional legislation above referred to and some months' experience in organizing bureaus to meet the duties thereby assigned to us, we have given further consideration and study to the various plans for the reorganization of the Commission which have been presented and our conclusion that there is no present need for an increase in the membership of the Interstate Commerce Commission has been confirmed and strengthened.

We adhere to the foregoing and to the other legislative recommendations enumerated in the "summary" at pages 97–98 of our last annual report.

For reasons indicated elsewhere in this report and in previous annual reports we also recommend the following legislation:

1. That Congress, upon appropriate investigation, determine the proper limit of our jurisdiction with respect to corporations closely allied with common carriers subject to the Interstate Commerce Act, not now subject to the jurisdiction of the Commission, such as fruit express companies, private car lines, forwarding companies, and holding companies which control enterprises engaged in interstate transportation or control companies patronizing or doing business with such corporations.

2. That sections 15 (1) and (3) be amended to include the power to regulate the minimum rates of water carriers otherwise within our jurisdiction.

3. That section 15 (4) be amended so as to restrict the so-called "long-haul right" to originating carriers, or subsequent carriers after they secure possession of the traffic.

4. That consideration be given to the suggestions contained in the chapter herein entitled "Scope of Jurisdiction Over Air Carriers."

5. That Congress further consider the situation of steam railroads under the Revenue Act of 1936.

6. That Congress legislate to cover completely the standard time zone field.

7. That the provisions of section 22 (1) be amended in the manner hereinbefore indicated in the chapter entitled "Drought-Relief Rates."

CHARLES D. MAHAFFIE, *Chairman.*
BALTHASAR H. MEYER.
CLYDE B. AITCHISON.
JOSEPH B. EASTMAN.
FRANK MCMANAMY.
CLAUDE R. PORTER.
WILLIAM E. LEE.
HUGH M. TATE.
CARROLL MILLER.
WALTER M. W. SPLAWN.
MARION M. CASKIE.

APPENDIX A

SUMMARY OF INDICTMENTS RETURNED AND INFORMATIONS AND PETITIONS FILED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1935, AND OCTOBER 31, 1936, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE AND ELKINS ACTS

United States *v.* Alexander & Baird Co. and I. C. Smith, southern district of Florida. February 28, 1936, indictment charging acceptance of concessions through failure to declare bunker ice; 5 counts.

United States *v.* Al-Mo-Co Corporation, eastern district of Louisiana. October 23, 1936, indictment charging acceptance of concessions on shipments of molasses which were falsely billed; 10 counts.

United States *v.* American Molasses Co. of Louisiana, Inc., eastern district of Louisiana. June 3, 1936, information charging false billing; 10 counts.

United States *v.* American Syrup & Sorghum Co., eastern district of Louisiana. October 23, 1936, indictment charging acceptance of concessions on shipments of molasses which were falsely billed; 7 counts.

United States *v.* J. Aron & Co., Inc., eastern district of Louisiana. October 23, 1936, indictment charging acceptance of concessions through false representation as to contents of shipments; 10 counts.

United States *v.* Baltimore & Ohio Railroad Co., western district of New York. December 20, 1935, indictment charging failure to observe demurrage tariffs; 10 counts.

United States *v.* Blanchard Produce Company, eastern district of North Carolina. March 23, 1936, indictment charging false billing; 10 counts.

United States *v.* Harry Bloom, Lenora Conway, and Oscar Henley MacLean, eastern district of Michigan. March 27, 1936, indictment charging conspiracy to file false claims; 1 count.

United States *v.* Frank A. Calhoun & Co., Inc., southern district of Georgia. January 27, 1936, information charging acceptance of concessions through violations of cotton transit tariffs; 3 counts.

United States *v.* Colonial Molasses Co., eastern district of Louisiana. October 23, 1936, indictment charging acceptance of concessions through false representation as to contents of shipments; 4 counts.

United States *v.* Jules A. Dumaine, eastern district of Louisiana. October 23, 1936, indictment charging acceptance of concessions through false representation as to contents of shipments; 10 counts.

United States *v.* Dunbar Molasses Company, Inc., eastern district of Louisiana. December 30, 1935, petition to recover penalties aggregating three times the amount of rebates received on shipments of molasses.

United States *v.* Ely & Walker Dry Goods Co., middle district of Tennessee. April 21, 1936, indictment charging acceptance of concessions through failure to pay switching charges; 10 counts.

United States *v.* Grant O. Erickson and Lillian Storm, district of Idaho. September 15, 1936, indictment charging conspiracy to use a pass unlawfully; 1 count.

United States *v.* Erie Railroad Co., western district of New York. December 20, 1935, indictment charging failure to observe demurrage tariffs; 12 counts.

United States *v.* Fletcher Wilson Coffee Co., middle district of Tennessee. April 21, 1936, indictment charging acceptance of concessions through failure to pay switching charges; 10 counts.

United States *v.* Maurice A. Gobler, eastern district of Pennsylvania. May 27, 1936, indictment charging the filing of false claims; 3 counts.

United States *v.* Gold-Hoffman-Post, Inc., Ben Gold, Ben Post, and Alexander Golbus, eastern district of Wisconsin. February 14, 1936, indictment charging the filing of false claims and conspiracy to file false claims; 11 counts.

United States *v.* Growers Marketing Co. and Louis Horowitz, eastern district of Michigan. November 22, 1935, indictment charging acceptance of concessions through failure to pay freight charges promptly, 6 counts.

United States *v.* Huffine Shirt Co., Inc., middle district of Tennessee. April 21, 1936, indictment charging acceptance of concessions through failure to pay switching charges; 10 counts.

United States *v.* Loose-Wiles Biscuit Co., eastern district of Louisiana. October 23, 1936, indictment charging acceptance of concessions on shipments of molasses which were falsely billed; 10 counts.

United States *v.* Louisville & Nashville Railroad Co., middle district of Tennessee. April 21, 1936, indictment charging the granting of concessions through failure to collect switching charges; 15 counts.

United States *v.* B. T. Lowe & Co., Inc., southern district of Georgia. January 27, 1936, information charging acceptance of concessions through violations of cotton transit tariffs; 3 counts.

United States *v.* McDaniel & Son, Inc., district of Arizona. August 20, 1936, indictment charging acceptance of concessions through failure to pay switching and track rental charges; 20 counts.

United States *v.* Midstate Horticultural Company, Inc., northern district of California. August 19, 1936, information charging the acceptance of concessions growing out of payment by carrier of claim barred by the statute of limitations; 1 count.

United States *v.* Phil Miller, Frank Sargeant and Francis B. Hearty, District of Nebraska. July 2, 1936, indictment charging the furnishing to carriers of false reports of weights, and conspiracy to commit that offense; 21 counts.

United States *v.* Nashville, Chattanooga & St. Louis Railway, northern district of Georgia. November 18, 1935, indictment charging the granting of concession through unlawful extension of credit for freight charges; 10 counts.

United States *v.* Nashville, Chattanooga & St. Louis Railway, middle district of Tennessee. April 21, 1936, indictment charging the granting of concessions through failure to collect switching charges; 15 counts.

United States *v.* Pacific and Idaho Northern Railway Co., district of Idaho. February 24, 1936, information charging acceptance of concessions through the billing of company coal to fictitious destinations for the purpose of obtaining divisions of joint rates; 6 counts.

United States *v.* W. Brand Pindell, district of Maryland. June 23, 1936, information charging the furnishing of false reports of weights; 10 counts.

United States *v.* W. Brand Pindell, eastern district of Virginia. September 28, 1936, information charging the acceptance of concessions through the furnishing of false reports of weights; 2 counts.

United States *v.* Rice Lake Cheese Co. and Harry Solomon, southern district of New York. October 2, 1936, indictment charging the filing of false claims; 3 counts.

United States *v.* Lillian Robinson, western district of Pennsylvania. January 6, 1936, information charging unlawful use of pass; 1 count.

United States *v.* Salant & Salant, Inc., middle district of Tennessee. April 21, 1936, indictment charging acceptance of concessions through failure to pay switching charges; 10 counts.

United States *v.* Simon Siegel, eastern district of Missouri. January 28, 1936, indictment charging the filing of false claims; 3 counts.

United States *v.* Southern Pacific Company, district of Arizona. August 20, 1936, indictment charging the granting of concessions through failure to collect switching and track rental charges; 20 counts.

United States *v.* Southern Pacific Company, northern district of California. August 19, 1936, information charging the granting of a concession through payment of claim for damage barred by the statute of limitations; 1 count.

United States *v.* Theo. Stivers Milling Company, northern district of Georgia. November 18, 1935, indictment charging acceptance of concessions through failure to pay freight charges promptly; 10 counts.

United States *v.* Tennessee Central Railway Co., middle district of Tennessee. November 12, 1935, indictment charging the granting of concessions through failure to collect reconsigning charges; 25 counts.

United States *v.* Union Pacific Railroad Company and Norman B. Pitcairn and Frank C. Nicodemus, Jr., as receivers of Wabash Railway Company, district of Nebraska. February 3, 1936, petition seeking to enjoin performance of terminal services at private contract rates instead of at published tariff rates.

United States *v.* Union Pacific Railroad Company and Henry A. Scandrett, Walter J. Cummings, and George I. Haight, district of Nebraska. September 11, 1936, petition seeking to enjoin performance of terminal services at private contract rates instead of at published tariff rates.

United States *v.* United Produce Co., Inc., Nathan P. Warren, and J. N. Fortin, district of Rhode Island. December 22, 1935, indictment charging the filing of false claims; 15 counts.

United States *v.* S. L. Warren, eastern district of North Carolina. March 23, 1936, indictment charging false billing; 10 counts.

United States *v.* Worcester Salt Company, western district of New York. December 20, 1935, indictment charging acceptance of concessions through failure to pay demurrage charges; 10 counts.

SUMMARY OF CASES CONCLUDED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1935, AND OCTOBER 31, 1936, INCLUSIVE, FOR VIOLATIONS OF THE INTERSTATE COMMERCE AND ELKINS ACTS

United States *v.* Alexander & Baird Co. and I. C. Smith, southern district of Florida, indictment charging acceptance of concessions through failure to declare bunker ice. June 12, 1936, pleas of nolo contendere entered and fine of $1,000 imposed upon each defendant.

United States *v.* Altman & Swartz, Inc., western district of New York, indictment charging the filing of false claims. March 27, 1936, verdict of guilty rendered. April 27, 1936, fine of $2,500 imposed.

United States *v.* American Molasses Co. of Louisiana, eastern district of Louisiana, information charging false billing. June 4, 1936, plea of nolo contendere entered and fine of $10,000 imposed.

United States *v.* Baltimore & Ohio Railroad Co., western district of New York, indictment charging the granting of concessions through failure to collect demurrage. March 23, 1936, plea of guilty entered and fine of $3,000 imposed.

United States *v.* Blanchard Produce Co., eastern district of North Carolina, indictment charging the furnishing of false reports of weights. October 26, 1936, plea of guilty entered and fine of $250 imposed.

United States *v.* Harry Bloom, Lenora Conway and Oscar Henley MacLean, eastern district of Michigan, indictment charging conspiracy to file false claims. June 17, 1936, plea of guilty entered on behalf of defendant MacLean, and verdicts of guilty rendered as to other defendants. July 31, 1936, fines of $500 upon defendant Bloom, and of $100 upon defendants Conway and MacLean, imposed.

United States *v.* Frank A. Calhoun & Co., Inc., southern district of Georgia, information charging acceptance of concessions through violation of cotton transit tariffs. January 27, 1936, plea of guilty entered and fine of $1,500 imposed.

United States *v.* Clowe & Davis, Inc., District of Columbia, indictment charging acceptance of concessions through failure to pay rental for use of carrier's property. March 9, 1936, verdict of not guilty rendered.

United States *v.* J. J. Cunningham, eastern district of Michigan, indictment charging false billing. June 2, 1936, plea of nolo contendere entered and fine of $1,000 imposed.

United States *v.* O. T. Cunnings, eastern district of Michigan, indictment charging the filing of false claims. June 5, 1936, nolle prosequi entered.

United States *v.* O. T. Cunnings, eastern district of Michigan, indictment charging solicitation of concessions through filing of false claims. June 5, 1936, nolle prosequi entered.

United States *v.* Dunbar Molasses Company, Inc., eastern district of Louisiana, petition to recover penalties aggregating three times the amount of rebates received from carriers on false claims for transit refunds on molasses. April 6, 1936, judgment entered in favor of Government in the sum of $4,643.43.

United States *v.* Grant O. Erickson and Lillian Storm, district of Idaho, indictment charging conspiracy to use pass unlawfully. September 15, 1936, pleas of guilty entered and fines of $50 upon defendant Erickson, and of $15 upon defendant Storm, imposed.

United States *v.* Erie Railroad Company, northern district of Ohio, indictment charging the granting of concessions through unlawful extension of credit for freight charges. December 20, 1935, plea of guilty entered and fine of $3,000 imposed.

United States *v.* Erie Railroad Co., western district of New York, indictment charging failure to observe demurrage tariffs. March 23, 1936, plea of guilty entered and fine of $3,000 imposed.

United States *v.* Fletcher Wilson Coffee Co., middle district of Tennessee, indictment charging acceptance of concessions through failure to pay switching charges. August 1, 1936, nolle prosequi entered.

United States *v.* Herman Franzblau Company and Herman Franzblau, eastern district of Michigan, indictment charging acceptance of concessions through failure to pay freight charges promptly. June 17, 1936, nolle prosequi entered.

United States *v.* H. P. Garin Co., northern district of California, indictment charging false billing. December 2, 1935, plea of guilty entered and fine of $75 imposed.

United States *v.* Abe Goldberg, northern district of Ohio, indictment charging acceptance of concessions through failure to pay freight charges promptly. December 20, 1935, plea of guilty entered and fine of $6,000 imposed.

United States *v.* Holly Hill Fruit Products, Inc., and Harry E. Di Cristina, southern district of Florida, indictment charging false billing. February 24, 1936, pleas of guilty entered and fines of $450 upon the corporation, and of $300 upon the individual defendant, imposed to apply in this case and the next succeeding case.

United States *v.* Holly Hill Fruit Products, Inc., Harry E. Di Cristina, and R. H. Wyllys, southern district of Florida, indictment charging false billing. February 24, 1936, pleas of guilty entered on behalf of corporation and defendant Di Cristina, and fines of $450 upon the Corporation, and of $300 upon defendant Di Cristina, imposed to apply in this case and the next preceding case. Nolle prosequi entered as to defendant Wyllys.

United States *v.* Huffine Shirt Co., Inc., middle district of Tennessee, indictment charging acceptance of concessions through failure to pay switching charges. October 7, 1936, plea of guilty entered and fine of $1,000 imposed.

United States *v.* Import Warehouse Corporation, eastern district of Louisiana, indictment charging the filing of false claims for transit refunds on molasses. April 6, 1936, plea of nolo contendere entered and fine of $10,356.57 imposed.

United States *v.* Lake Charm Fruit Company, southern district of Florida, indictment charging acceptance of concessions through failure to declare bunker ice. March 10, 1936, plea of guilty entered and fine of $1,500 imposed.

United States *v.* Louisville & Nashville Railroad Co., middle district of Tennessee, indictment charging the granting of concessions through failure to collect switching charges. October 20, 1936, plea of guilty entered and fine of $1,500 imposed.

United States *v.* B. T. Lowe & Co., Inc., southern district of Georgia, information charging the filing of false claims for transit refunds on cotton. January 27, 1936, plea of guilty entered and fine of $1,500 imposed.

United States *v.* Merkel Bros. Co. and L. W. Christensen, northern district of Illinois, indictment charging the filing of false claims and conspiracy to file false claims. March 20, 1936, verdicts of guilty rendered. May 19, 1936, fine of $100 imposed upon defendant Christensen. June 29, 1936, motion for new trial granted as to corporation defendant.

United States *v.* Nashville, Chattanooga & St. Louis Railway Co., northern district of Georgia, indictment charging the granting of concessions through failure to collect freight charges promptly. October 12, 1936, plea of nolo contendere entered and fine of $2,000 imposed.

United States *v.* Nashville, Chattanooga & St. Louis Railway Co., middle district of Tennessee, indictment charging the granting of concessions through failure to collect switching charges. October 20, 1936, plea of guilty entered and fine of $1,500 imposed.

United States *v.* Nelson & Company, Inc., southern district of Florida, indictment charging acceptance of concessions through failure to declare top ice. March 10, 1936, plea of guilty entered and fine of $1,500 imposed.

United States *v.* North Western Refrigerator Line Co., northern district of Illinois, indictment charging the granting of concessions through payment to a shipper of mileage allowances in excess of the amount of rental paid by the shipper for the use of private cars. April 24, 1936, plea of nolo contendere entered and fine of $4,000 imposed.

United States *v.* Pacific & Idaho Northern Railway Co., district of Idaho, information charging acceptance of concessions through the billing of company coal to fictitious destinations to obtain divisions of joint rates. September 21, 1936, plea of guilty entered and fine of $1,000 imposed.

United States *v.* Pennsylvania Railroad Co., District of Columbia, indictment charging the granting of concessions through failure to collect rental from shippers for use of its property. January 15, 1936, verdict of not guilty rendered.

United States *v.* Pennsylvania Railroad Company, northern district of Ohio, indictment charging the granting of concessions through failure to collect freight charges promptly. December 20, 1935, plea of guilty entered and fine of $3,000 imposed.

United States *v.* Peters Farms, Inc., and Joseph A. Trombetta, southern district of Florida, indictment charging acceptance of concessions through failure to declare bunker ice. March 9, 1936, pleas of guilty entered and fines of $1,500 upon the corporation, and of $1,000 upon defendant Trombetta, imposed.

United States *v.* Abe Rafelson Co., Inc., and L. W. Christensen, northern district of Illinois, indictment charging the filing of a false claim. March 31, 1933, plea of guilty entered on behalf of corporation and fine of $1,000 imposed. April 3, 1936, nolle prosequi entered as to defendant Christensen.

United States *v.* Lillian Robinson, western district of Pennsylvania, information charging unlawful use of pass. January 6, 1936, plea of guilty entered and defendant placed on probation for one year and sentenced to pay costs.

United States *v.* William Robinson and John Gentile, western district of New York, indictment charging the filing of a false claim. April 1, 1936, verdicts of guilty as to defendant Robinson, and of not guilty as to defendant Gentile, rendered, and fine of $2,000 imposed upon Robinson.

United States *v.* Salant & Salant, Inc., middle district of Tennessee, indictment charging the acceptance of concessions through failure to pay switching charges. October 20, 1936, plea of nolo contendere entered and fine of $1,000 imposed.

United States *v.* Max Shapiro, District of Columbia, indictment charging acceptance of concessions through failure to pay rental for use of carrier's property. March 9, 1936, verdict of not guilty rendered.

United States *v.* Simon Siegel, eastern district of Missouri, indictment charging the filing of false claims. March 13, 1936, plea of guilty entered and fine of $150 imposed.

United States *v.* Southern Packing Sheds, Inc., and L. M. Kirkpatrick, southern district of Florida, indictment charging acceptance of concessions through failure to declare bunker ice. March 17, 1936, plea of guilty entered on behalf of corporation and fine of $1,500 imposed. Nolle prosequi entered as to defendant Kirkpatrick.

United States *v.* Theo. Stivers Milling Company, northern district of Georgia, indictment charging acceptance of concessions through failure to pay freight charges promptly. March 26, 1936, plea of guilty entered and fine of $1,000 imposed.

United States *v.* Hyman Taback and Jack Taback, eastern district of Michigan, indictment charging false billing. June 2, 1936, plea of guilty entered on behalf of Jack Taback, and nolle prosequi entered as to other defendant. July 31, 1936, suspended sentence of imprisonment of one year imposed.

United States *v.* Tennessee Central Railway Co., middle district of Tennessee, indictment charging failure to observe its reconsignment tariffs. January 4, 1936, plea of guilty entered and fine of $2,000 imposed.

United States *v.* Howard A. Trueman, Howard A. Trueman, Jr., and L. E. Trueman, trading as Haven Fruit Company, southern district of Florida, indictment charging false billing. February 27, 1936, plea of nolo contendere entered on behalf of Howard A. Trueman and fine of $250 imposed. Nolle prosequi entered as to other defendants.

United States *v.* S. L. Warren, eastern district of North Carolina, indictment charging false billing. May 11, 1936, plea of nolo contendere entered and fine of $250 imposed.

United States *v.* Worcester Salt Co., western district of New York, indictment charging acceptance of concessions through failure to pay demurrage charges. March 23, 1936, plea of guilty entered and fine of $2,000 imposed.

APPENDIX B

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS AND REQUIREMENTS OF THE COMMISSION AND STATUS ON OCTOBER 31, 1936, OF CASES PENDING IN THE COURTS

Cases Decided by the Courts Since October 31, 1935

SUPREME COURT OF THE UNITED STATES

Atlanta, B. & C. R. Co. v. *United States.*

For prior case history see 1935 Annual Report, page 104. On November 11, 1935, the Commission's order was sustained (296 U. S. 33).

George Allison & Co. v. *United States.*

For prior case history see 1935 Annual Report, page 104. On November 11, 1935, the decree of the District Court, dismissing the petition for want of jurisdiction, was affirmed (296 U. S. 546).

Chesapeake & Ohio Ry. Co. v. *United States.*

For prior case history see 1935 Annual Report, page 104. On November 25, 1935, the Commission's order was sustained (296 U. S. 187).

United States v. *Idaho.*

For prior case history see 1935 Annual Report, page 104. On April 27, 1936, the judgment of the District Court, holding the Commission's order invalid, was affirmed (298 U. S. 105).

Baltimore & Ohio R. Co. v. *United States.*

For prior case history see 1935 Annual Report, page 104. On May 18, 1936, the Commission's order was sustained (298 U. S. 349).

DISTRICT COURTS OF THE UNITED STATES

United States ex rel. Maine Potato Growers & Shippers Assn. v. *Interstate Commerce Commission.* District of Columbia.

For prior case history see 1935 Annual Report, page 110. On November 25, 1935, petition for writ of mandamus was denied, and on April 13, 1935, the appeal was docketed in the U. S. Court of Appeals for the District of Columbia.

Beard Truck Line Co. v. *Lon A. Smith.* Southern District of Texas.

Suits in equity to enjoin members of Railroad Commission of Texas and other authorities of that state from interfering with transportation of traffic by motor vehicle in interstate and foreign commerce between Texas and other states, by attempting to apply to such traffic so-called safety provisions of the Motor Carrier Act of Texas.

On November 16, 1935, brief on behalf of the United States and Interstate Commerce Commission was filed in opposition to contention of Texas authorities that, as applied to such traffic, the Federal Motor Carrier Act, 1935, is inapplicable, and, if applicable, unconstitutional. Injunction was denied on November 25, 1935.

American Sheet & Tin Plate Co. v. *United States.* Western District of Pennsylvania.

For prior case history see 1935 Annual Report, page 107. On May 23, 1936, a permanent injunction was granted (15 F. Supp. 711).

Allegheny Steel Co. v. *United States.* Western District of Pennsylvania.

For prior case history see 1935 Annual Report, page 107. On May 23, 1936, a permanent injunction was granted (15 F. Supp. 711).

Pittsburgh Plate Glass Co. v. *United States.* Western District of Pennsylvania.

For prior case history see 1935 Annual Report. page 108. On May 23, 1936, a permanent injunction was granted (15 F. Supp. 711).

Weirton Steel Co. v. *United States.* Western District of Pennsylvania.

For prior case history see 1935 Annual Report, page 109. On May 23, 1936, a permanent injunction was granted (15 F. Supp. 711).

West Leechburg Steel Co. v. *United States.* Western District of Pennsylvania.

For prior case history see 1935 Annual Report, page 109. On May 23, 1936, a permanent injunction was granted (15 F. Supp. 711).

Pittsburgh Plate Glass Co. v. *United States.* Western District of Pennsylvania.

For prior case history see 1935 Annual Report, page 110. On May 23, 1936, a permanent injunction was granted (15 F. Supp. 711).

Baltimore & Ohio R. Co. v. *United States.* Northern District of New York.

Suit in equity to set aside the Commission's order of November 14, 1935, in Docket No. 26285, *Thomas Keery Co., Inc., et al.* v. *New York, O. & W. Ry. Co., et al.*, finding that rates on methanol (wood alcohol), in carloads, from producing points in Pennsylvania and New York, to Cadosia, N. Y., for refining, and thence shipped to destinations in official classification territory were unreasonable (206 I. C. C. 585; 211 I. C. C. 451).

On May 2, 1936, the petition was filed, and on June 30, 1936, a permanent injunction was granted (15 F. Supp. 674).

Missouri Pacific R. Co. v. *United States.* Eastern District of Missouri.

For prior case history see page 118 this volume.

Material Service Corp. v. *United States.* Northern District of Illinois, Eastern Division.

For prior case history see page 118 this volume. On October 15, 1936, the bill was dismissed.

Utah-Idaho Central R. R. Co. v. *Shields.* Northern District of Utah.

For prior case history see page 119 this volume. On October 15, 1936, a permanent injunction was granted.

Baltimore & Ohio R. Co. v. *United States.* Northern District of Illinois, Eastern Division.

For prior case history see page 120 this volume. On October 15, 1936, the bill was dismissed.

Baltimore & Ohio R. Co. v. *United States.* Northern District of Illinois, Eastern Division.

For prior case history see page 120 this volume. On October 16, 1936, the bill was dismissed.

Cases Discontinued

DISTRICT COURTS OF THE UNITED STATES

Georgia Public Service Commission v. *United States.* Northern District of Georgia.

For prior case history see 1935 Annual Report, page 104. On November 1, 1936, the case was discontinued because not appealed within the time prescribed by law.

Delphos Quarries Co. v. *United States.* Southern District of Ohio.

For prior case history see 1934 Annual Report, page 91, and 1935 Annual Report, page 106. On February 27, 1936, the case was discontinued because not appealed within the time prescribed by law.

Union Stock Yard & Transit Co. of Chicago v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to enjoin enforcement of the Commission's order requiring plaintiff to cancel schedules filed by it for the purpose of discontinuing publication and filing of its charges for the unloading of livestock from cars, and the loading of livestock into cars, at the Union Stock Yard, Chicago (I. & S. Docket 4109, 213 I. C. C. 330).

On January 13, 1936, the bill of complaint was filed, and on May 13, 1936, the court dismissed the case on stipulation of the parties.

Petroleum Warehouse Co. v. *United States.* Southern District of Alabama.

For prior case history see 1934 Annual Report, page 91. On August 10, 1936, the case was dismissed on motion of complainants.

Cases Pending in the Courts, October 31, 1936

SUPREME COURT OF THE UNITED STATES

L. R. Powell and H. W. Anderson, Receivers, Seaboard Air Line Ry. Co. v. *United States.*

For prior case history see 1935 Annual Report, page 104. On August 19, 1936, the appeal was docketed in the Supreme Court.

CIRCUIT COURT OF APPEALS, THIRD CIRCUIT

Baltimore & Ohio R. Co. v. *United States.*

For prior case history see 1934 Annual Report, page 91, and 1935 Annual Report, page 106. On December 27, 1935, the case was appealed to the Circuit Court of Appeals, Third Circuit.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

United States ex rel. Maine Potato Growers & Shippers Assn. v. *Interstate Commerce Commission.*

For prior case history see 1935 Annual Report, page 110. On April 13, 1936, the appeal was docketed in the U. S. Court of Appeals for the District of Columbia.

DISTRICT COURTS OF THE UNITED STATES

Board of Pub. U. Commrs. of New Jersey v. *United States.* District of New Jersey.

For prior case history see 1935 Annual Report, page 106. On March 26, 1936, the case was argued and submitted for decision.

Interlake Iron Corp. v. *United States.* Northern District of Ohio, Western Division.

For prior case history see 1935 Annual Report, page 106.

Elgin, Joliet & E. Ry. Co. v. *United States.* Northern District of Indiana.

For prior case history see 1935 Annual Report, page 107. On June 15, 1936, the case was argued and submitted for decision.

Standard Oil Co. of Louisiana v. *United States.* Eastern District of Louisiana.

For prior case history see 1935 Annual Report, page 106. On January 30, 1936, the case was argued and submitted for decision.

Keystone Steel & Wire Co. v. *United States.* Southern District of Illinois.

For prior case history see 1935 Annual Report, page 107.

Sheffield Steel Corp. v. *United States.* Western District of Missouri.

For prior case history see 1935 Annual Report, page 107.

American Sheet & Tin Plate Co. v. *United States.* Western District of Pennsylvania.

For case history see page 114 this volume.

Allegheny Steel Co. v. *United States.* Western District of Pennsylvania.

For case history see page 114 this volume.

Pittsburgh Plate Glass Co. v. *United States.* Western District of Pennsylvania.

For case history see page 114 this volume.

Weirton Steel Co. v. *United States.* Western District of Pennsylvania.

For case history see page 115 this volume.

West Leechburg Steel Co. v. *United States.* Western District of Pennsylvania.

For case history see page 115 this volume.

Pittsburgh Plate Glass Co. v. *United States.* Western District of Pennsylvania.

For case history see page 115 this volume.

Koppers Gas & Coke Co. v. *United States.* District of Minnesota.

For prior case history see 1935 Annual Report, page 109. On October 12, 1936, the case was argued and submitted for decision on final hearing.

Timken Roller Bearing Co. v. *United States.* Northern District of Ohio, Eastern Division.

For prior case history see 1935 Annual Report, page 107.

Colin C. Bell and Wm. Tracy Alden, Trustees, Estate of Celotex Co. v. *United States.* Eastern District of Louisiana, New Orleans Division.

For prior case history see 1935 Annual Report, page 107. On January 30, 1936, the case was argued and submitted for decision on final hearing.

Pan American Petroleum Corp. v. *United States.* Eastern District of Louisiana, New Orleans Division.

For prior case history see 1935 Annual Report, pages 107–108. On January 30, 1936, the case was argued and submitted for decision on final hearing.

Magnolia Petroleum Co. v. *United States.* Southern District of Texas, Houston Division.

For prior case history see 1935 Annual Report, page 108. On January 30, 1936, the case was argued and submitted for decision on final hearing.

Gulf Refining Co. v. *United States,* Southern District of Texas, Houston Division.

For prior case history see 1935 Annual Report, page 108. On January 30, 1936, the case was argued and submitted for decision on final hearing.

Humble Oil & Ref. Co. v. *United States.* Southern District of Texas, Houston Division.

For prior case history see 1935 Annual Report, page 108. On January 30, 1936, the case was argued and submitted for decision on final hearing.

The Texas Co. v. *United States.* Southern District of Texas, Houston Division.

For prior case history see 1935 Annual Report, page 108. On January 30, 1936, the case was argued and submitted for decision on final hearing.

Great Southern Lumber Co. v. *United States,* Eastern District of Louisiana, New Orleans Division.

For prior case history see 1935 Annual Report, page 108. On January 30, 1936, the case was argued and submitted for decision on final hearing.

Inland Steel Co. v. *United States.* Northern District of Illinois.

For prior case history see 1935 Annual Report, page 108.

Kansas City Power & Light Co. v. *United States.* Western District of Missouri.

For prior case history see 1935 Annual Report, page 109.

Great Lakes Steel Corp. v. *United States.* Eastern District of Michigan, Southern Division.

For prior case history see 1935 Annual Report, page 109.

Interlake Iron Corp. v. *United States.* Northern District of Illinois, Eastern Division.

For prior case history see 1935 Annual Report, page 109.

Wisconsin Steel Co. v. *United States.* Northern District of Illinois, Eastern Division.

For prior case history see 1935 Annual Report, page 109.

East Chicago Dock Terminal Co. v. *United States.* Northern District of Indiana, Hammond Division.

For prior case history see 1935 Annual Report, pages 109–110.

Crane Co. v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the Commission's 34th supplemental report and order of July 29, 1935, in *Ex Parte 104,* Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (210 I. C. C. 210).

On November 2, 1935, the petition was filed, and on November 25, 1935, an interlocutory injunction was granted.

Beard Truck Line Co. v. *Lon A. Smith.* Southern District of Texas.

For case history see page 114 this volume.

The Texas Co. v. *United States.* Southern District of Texas, Houston Division.

Suit in equity to set aside the Commission's 44th supplemental report and order of January 15, 1936, in *Ex Parte 104,* Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (213 I. C. C. 583).

On February 11, 1936, the bill of complaint was filed, and on April 15, 1936, brief for the Commission was filed.

Goodman Lumber Co. v. *United States.* Eastern District of Wisconsin.

Suit in equity to set aside the Commission's 45th supplemental report and order of February 8, 1936, in *Ex Parte 104,* Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers

of an allowance to the industry for service beyond the present points of interchange (214 I. C. C. 89).

On March 2, 1936, the petition was filed, and an injunction was granted on April 28, 1936.

Baltimore & Ohio R. Co. v. *United States.* Northern District of New York.

For case history see page 115 this volume.

State of Montana ex rel. Bd. of R. R. Commrs. of Montana v. *United States.*

Suit in equity to test the validity of the motor carrier act, 1935, insofar as applicable to interstate and foreign commerce by motor vehicles upon the high ways of the state of Montana.

On February 21, 1936, the bill of complaint was filed, and the Commission's answer was filed on April 3, 1936.

Wheeling Steel Corp. v. *United States.* Northern District of West Virginia.

Three suits in equity to set aside the Commission's 46th supplemental report and order of February 3, 1936, in *Ex Parte 104*, Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange at petitioner's Benwood, W. Va., Martin's Ferry, O., and Steubenville, O., plants, respectively (214 I. C. C. 53).

On March 9, 1936, the petitions were filed, and on March 19, 1936, an interlocutory injunction was granted in each case.

Material Service Corp. v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the Commission's order of March 26, 1936, in Docket No. 19610, *Switching Rates in Chicago Switching District*, issued with 5th supplemental report on further hearing, modifying findings and order in prior report, 195 I. C. C. 89, with respect to intrastate movement of crushed stone, in carloads, from Hillside and Thornton to South Water Street, in the Chicago switching district.

On April 10, 1936, the bill of complaint was filed, and on October 15, 1936, the bill was dismissed.

Missouri Pacific R. Co. v. *United States.* Eastern District of Missouri.

Suit in equity to set aside the Commission's order of November 14, 1935, ordering cancellation of schedules proposing elimination of routes embracing lines of the Quanah, Acme & Pacific Ry. Co., on shipments of cottonseed and its products (I. & S. Docket 4069; 211 I. C. C. 443).

On April 16, 1936, bill of complaint was filed, and on October 10, 1936, a permanent injunction was granted.

Charles H. Kelby & Clifford S. Kelsey, Trustees, v. *John Ringling.* District of Columbia.

For case history see 1935 Annual Report, page 110.

United States ex rel. Kansas City Sou. Ry. Co. v. *Interstate Commerce Commission.* District of Columbia.

Petition for writ of mandamus to compel the Commission to take jurisdiction of complaint by carriers using terminal facilities of the Kansas City Terminal Ry. Co. at Kansas City, Mo.-Kans., and find that payment of interest and taxes by the small users constitutes undue prejudice and an undue burden upon interstate commerce (Docket No. 26876; 211 I. C. C. 291).

On June 8, 1936, the petition was filed, and the Commission's answer was filed on June 23, 1936.

Acme Steel Co. v. *United States.* Northern District of Illinois.

Suit in equity to set aside the Commission's 52d supplemental report and order of April 28, 1936, in *Ex Parte 104*, Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (215 I. C. C. 373).

On June 12, 1936, the petition was filed, and the Commission's answer was filed on July 1, 1936.

Ann Arbor R. R. Co. (Norman B. Pitcairn & Frank C. Nicodemus, Jr., Receivers) v. *United States.* Southern District of New York.

Suit in equity to set aside the Commission's order of February 28, 1936, 214 I. C. C. 174, wherein and whereby the Commission required carriers operating in what is known as the Eastern District to cease and desist from exacting for the transportation of passengers in coaches and in pullman cars fares found by the Commission to be unreasonable, and substitute therefor those found by the Commission to be reasonable.

On May 23, 1936, the petition was filed, and the Commission's answer was filed on May 29, 1936.

Texas Electric Ry. Co. v. *Thomas.* Northern District of Texas.

Suit in equity to obtain a finding that plaintiff is an interurban electric railway within the meaning of Section 1 (2) of "An Act to levy an excise tax upon carriers, and an income tax upon their employees, * * *, approved August 29, 1935", and an injunction against prosecution of plaintiff for violation of that act.

On May 3, 1936, bill of complaint was filed, and on June 4, 1936, an interlocutory injunction was granted.

Texas Electric Ry. Co. v. *Eastus.* Northern District of Texas.

Suit in equity to obtain a finding that plaintiff is an interurban electric railway within the meaning of Sec. 1, First, of the Railway Labor Act, as amended by the act of June 21, 1934, and an injunction against prosecution of plaintiff for violation of that act (208 I. C. C. 193).

On May 3, 1936, bill of complaint was filed, and on June 4, 1936, an interlocutory injunction was granted.

Rudy-Patrick Seed Co. v. *United States.* Western District of Missouri, Western Division.

Suit in equity to set aside the Commission's report on further hearing in *Rudy-Patrick Seed Co.* v. *Abilene & Sou. Ry. Co.*, 206 I. C. C. 355, and to enjoin defendant carriers from collecting rates on millet seed in accordance with said report, and for judgment against said carriers for reparation denied by the Commission in said report.

On June 3, 1936, the petition was filed, and the Commission's answer was filed on July 27, 1936.

Chicago Warehouse & Terminal Co. v. *Igoe.* Northern District of Illinois, Eastern Division.

Suit in equity to obtain a finding under the Federal Declaratory Judgment Act that plaintiff is not subject to the provisions of the Railway Labor Act, and seeking to enjoin the United States Attorney from prosecuting plaintiff for violation of that Act (214 I. C. C. 81).

On June 4, 1936, the bill of complaint was filed.

Chicago Tunnel Co. v. *Igoe.* Northern District of Illinois, Eastern Division.

Suit in equity to obtain a finding under the Federal Declaratory Judgment Act that plaintiff is not subject to the provisions of the Railway Labor Act, and seeking to enjoin the United States Attorney from prosecuting plaintiff for violation of that Act (214 I. C. C. 81).

On June 5, 1936, the bill of complaint was filed.

W. W. Griffin & H. W. Purvis, Receivers for Georgia & Florida R. R., v. *United States.* Southern District of Georgia, Augusta Division.

Suit in equity to set aside the Commission's order of February 4, 1936 (214 I. C. C. 66), wherein the Commission found that rates paid the carrier for transportation of mail were fair and reasonable, and requesting the court to direct the Commission to reopen and reconsider its decision and to fix other rates for the transportation of mails on and after April 1, 1931.

On June 20, 1936, the petition was filed, and on July 16, 1936, the Commission's answer was filed.

John H. Shannahan & Claude J. Jackson, Trustees, Chicago, S. S. & S. B. R. R. and Chicago, S. S. & S. B. R. R. v. *United States.* Northern District of Indiana, South Bend Division.

Suit in equity to enjoin the Commission's report in Railway Labor Act Docket No. S (214 I. C. C. 167), wherein the Commission found that said carrier is not within the exemption proviso of the Railway Labor Act, and seeking to have the court decree, find, and determine that said railroad is not subject to the provisions of said Railway Labor Act.

On June 22, 1936, the petition was filed, and on August 14, 1936, the Commission's answer was filed.

Utah-Idaho Central R. R. Co. v. *Shields.* Northern District of Utah.

Suit in equity to obtain a finding, under the Federal Declaratory Judgment Act, that plaintiff company is an electric interurban railroad not subject to the provisions of the Railway Labor Act (the Commission having found, 214 I. C. C. 707, that said plaintiff was subject to said act) and to enjoin defendant from prosecuting plaintiff, its officers or agents, for violation of any of the provisions of the Railway Labor Act.

On June 24, 1936, the bill of complaint was filed, and on October 15, 1936, a permanent injunction was granted.

Baltimore & Ohio R. Co. v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the Commission's orders of March 11, 1935, and April 30, 1936, in I. & S. Docket No. 3985, *Coke from Alabama and Tennessee to Central Territory,* wherein the Commission found that proposed rates on coke from Birmingham and other southern points to destinations in central and Illinois territories were not justified, and prescribed a reasonable basis of rates for the future (208 I. C. C. 281; 215 I. C. C. 384).

On July 22, 1936, the bill of complaint was filed, and on October 15, 1936, the bill was dismissed.

Baltimore & Ohio R. Co. v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the Commission's order of March 4, 1936, in Docket No. 17000, *Rate Structure Investigation, Part 7, Grain and Grain Products within the Western District and for Export,* insofar as said order reduces rates on grain and grain products from Illinois points to Chicago, as shown in Appendix B to the Commission's report (215 I. C. C. 83).

On July 24, 1936, the petition was filed, and on October 16, 1936, the bill was dismissed.

Hudson & Manhattan R. R. Co. v. *Hardy.* Southern District of New York.

Suit in equity to obtain a finding under the Federal Declaratory Judgment Act that plaintiff company is an electric interurban railroad not subject to the provisions of the Railway Labor Act (the Commission having found, 216 I. C. C. 745, that said plaintiff was subject to said act) and to enjoin defendant from prosecuting plaintiff, its officers or agents, for violation of any of the provisions of the Railway Labor Act.

On August 12, 1936, the bill of complaint was filed, and on September 4, 1936, the Commission's answer was filed.

Hudson & Manhattan R. R. Co. v. *Quinn.* District of New Jersey.

Suit in equity to obtain a finding under the Federal Declaratory Judgment Act that plaintiff company is an electric interurban railroad not subject to the provisions of the Railway Labor Act (the Commission having found, 216 I. C. C. 745, that said plaintiff was subject to said act) and to enjoin defendant from prosecuting plaintiff, its officers or agents, for violation of any of the provisions of the Railway Labor Act.

On August 12, 1936, the bill of complaint was filed, and on September 3, 1936, the Commission's answer was filed.

American Steel Foundries v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the Commission's 57th supplemental report and order of May 28, 1936, in *Ex Parte 104,* Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (216 I. C. C. 13).

On August 20, 1936, the petition was filed, and on September 11, 1936, the Commission's answer was filed.

Beatrice Creamery Co. v. *United States.* Northern District of Illinois, Eastern Division.

Suits in equity to set aside that part of the Commission's order of June 2, 1936, in Docket No. 20769, *Charges for Protective Service to Perishable Freight,* which prescribes a basis of charges for icing, switching, supervision, station and auditors' accounting, bunker repairs, and ice haulage (215 I. C. C. 684).

On September 1, 1936, petitions were filed, and on September 9, 1936, a sixty-day suspension order was issued.

Chicago By-Product Coke Co. v. *United States.* Northern District of Illinois, Eastern Division.

Suit in equity to set aside the Commission's 56th supplemental report and order of May 28, 1936, in *Ex Parte 104,* Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (216 I. C. C. 8).

On September 2, 1936, the petition was filed, and on September 16, 1936, the Commission's answer was filed.

Warren Foundry & Pipe Co. v. *United States.* District of New Jersey.

Suit in equity to set aside the Commission's 54th supplemental report and order of May 21, 1936, as amended by order entered June 27, 1936, in *Ex Parte 104,* Part II, "Terminal Allowances", wherein the Commission found to be

unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (215 I. C. C. 653).

On September 3, 1936, the petition was filed, and on September 28, 1936, the Commission's answer was filed.

A. E. Staley Mfg. Co. v. *United States.* Southern District of Illinois, Southern Division.

Suit in equity to set aside the Commission's 55th supplemental report and order of May 22, 1936, in *Ex Parte 104*, Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange (215 I. C. C. 656).

On June 2, 1936, the petition was filed, and on September 28, 1936, the Commission's answer was filed.

Clinton L. Bardo, Trustee, New York, Westchester & Boston Ry. Co., Debtor, v. *Hardy.* Southern District of New York.

Suit in equity to obtain a finding under the Federal Declaratory Judgment Act that the plaintiff company is an electric interurban railroad not subject to the provisions of the Railway Labor Act, (the Commission having found, 218 I. C. C. 253, that said plaintiff was subject to said Act) and to enjoin defendant from prosecuting plaintiff, its officers or agents, for violation of any of the provisions of the Railway Labor Act.

On September 3, 1936, bill of complaint was filed, and on October 6, 1936, the Commission's intervention was filed.

Louisiana Development Co. v. *United States.* Eastern District of Louisiana, New Orleans Division.

Suit in equity to set aside the Commission's 58th supplemental report and order of August 24, 1936, in *Ex Parte* 104, Part II, "Terminal Allowances", wherein the Commission found to be unlawful the payment by the carriers of an allowance to the industry for service beyond the present points of interchange. (218 I. C. C. 276.)

On October 15, 1936, the petition was filed, and on October 31, 1936, the Commission's answer was filed.

APPENDIX C

STATISTICAL SUMMARIES

A. Statistics of railway development since 1924.
B. Statistics from monthly and other periodical reports of carriers.

A. STATISTICS OF RAILWAY DEVELOPMENT

Data for years preceding 1924 for most of the tables appear in prior reports.

TABLE I.—*Mileage operated and mileage owned by steam railways in the United States, not including switching and terminal companies, 1924–35*

Year ended Dec. 31—	Road owned in the United States [1]	Mileage operated by railways of classes I, II, and III (including trackage rights)			
		First main track	Second or additional main tracks	Yard track and sidings	All tracks
1924	250,156	258,238	39,916	116,874	415,028
1925	249,398	258,631	40,962	118,361	417,954
1926	249,138	258,815	41,686	120,840	421,341
1927	249,131	259,639	42,071	123,027	424,737
1928	249,309	260,546	42,432	124,772	427,750
1929	249,433	260,570	42,711	125,773	429,054
1930	249,052	260,440	42,742	126,701	429,883
1931	248,829	259,999	42,780	127,044	429,823
1932	247,595	258,869	42,556	126,977	428,402
1933	245,703	256,741	42,397	126,526	425,664
1934	243,857	254,882	42,109	125,410	422,401
1935	241,822	252,930	41,916	124,382	419,228

[1] Includes mileage of some small companies that do not make annual reports to the Commission.

TABLE II.—*Equipment of steam railways, including switching and terminal companies, in service at the close of each year, 1924–35* [1]

Year ended Dec. 31—	Number of locomotives	Average tractive effort [2]	Number of freight cars (excluding caboose)	Average capacity [2]	Number of passenger-train cars
		Pounds		*Tons*	
1924	69,486	39,891	2,411,627	44.3	57,451
1925	68,092	40,666	2,414,083	44.8	56,814
1926	66,847	41,886	2,403,967	45.1	56,855
1927	65,348	42,798	2,378,800	45.5	55,729
1928	63,311	43,838	2,346,751	45.8	54,800
1929	61,257	44,801	2,323,683	46.3	53,838
1930	60,189	45,225	2,322,267	46.6	53,584
1931	58,652	45,764	2,245,904	47.0	52,096
1932	56,732	46,299	2,184,690	47.0	50,598
1933	54,228	46,916	2,072,632	47.5	47,677
1934	51,423	47,712	1,973,247	48.0	44,884
1935	49,541	48,367	1,867,381	48.3	42,426

[1] Privately owned cars and cars owned by the Pullman Co. are not included. In 1935, privately owned freight-carrying cars numbered 295,664 and cars owned by the Pullman Co. 8,007.
[2] Class I steam railways.

TABLE III.—*Railway capital actually outstanding and net income, 1924–35: Steam railways, excluding switching and terminal companies*

Year ended Dec. 31—	Total railway capital	Funded debt unmatured [1]	Stock	Ratio of debt to capital	Net income [2]	Ratio of net income to stock
	Thousands	*Thousands*	*Thousands*	*Percent*	*Thousands*	*Percent*
1924	$21,680,783	$12,380,730	$9,300,053	57.1	$623,399	6.70
1925	21,734,095	12,320,995	9,413,100	56.7	771,053	8.19
1926	21,748,806	12,383,534	9,365,271	56.9	883,422	9.43
1927	21,848,928	12,309,438	9,539,490	56.3	741,924	7.78
1928	22,025,588	12,303,510	9,722,078	55.9	855,018	8.79
1929	22,306,752	12,459,441	9,847,311	55.9	977,230	9.92
1930	22,782,889	12,771,351	10,011,538	56.1	577,923	5.77
1931	22,747,229	12,738,815	10,008,414	56.0	169,287	1.69
1932	22,831,547	12,788,785	10,042,762	56.0	*121,630*	----------
1933	22,656,920	12,629,828	10,027,092	55.7	26,543	.26
1934	22,412,057	12,453,507	9,958,550	55.6	23,282	.23
1935	22,079,551	12,154,349	9,925,202	55.0	52,177	.53

[1] Does not include funded debt matured unpaid. For class I railways and their nonoperating subsidiaries such debt amounted to $452,292,136 at the close of 1935.
[2] Intercorporate duplications not eliminated, but amounts shown correspond with the stock in the second preceding column.

TABLE IV.—*Dividends, 1924–35: Steam railways, including lessor companies, but excluding switching and terminal companies*

Year ended Dec. 31—	Proportion of stock paying dividends [1]	Amount of dividends [1]	Average rate on—	
			Dividend-paying stock [1]	All stock
	Percent	*Thousands*	*Percent*	*Percent*
1924	64.97	$385,130	6.37	4.14
1925	66.70	409,645	6.52	4.35
1926	69.12	473,683	7.32	5.06
1927	70.25	[2] 507,281	8.47	5.95
1928	73.65	510,018	7.12	5.25
1929	76.23	560,902	7.47	5.70
1930	76.93	603,150	7.83	6.02
1931	73.20	401,463	5.48	4.01
1932	32.85	150,774	4.57	1.50
1933	31.11	158,790	5.09	1.58
1934	34.26	211,767	6.21	2.13
1935	34.39	202,568	5.94	2.04

[1] Includes figures for lessors and operating railways without excluding duplications on account of intercorporate payments.
[2] Includes unusual items amounting to $76,300 (thousands), not representing cash.

TABLE V.—*Reported property investment and certain income items, 1924–35: Operating steam railways, excluding switching and terminal companies*

Year ended Dec. 31—	Investment [1]	Investment per mile of road	Depreciation reserve	Net railway operating income [2]	Other income [3]	Interest, rents, and other deductions [4]	Dividends declared [5]
	Thousands		*Thousands*	*Thousands*	*Thousands*	*Thousands*	*Thousands*
1924	[6] $22,182,267	$93,232	$1,549,969	$984,463	[7] $269,188	[7] $684,559	$325,983
1925	[6] 23,217,209	94,917	1,680,473	1,136,728	272,102	706,272	349,089
1926	[6] 23,880,740	97,433	1,811,002	1,229,020	301,541	718,934	411,208
1927	[6] 24,453,871	99,546	1,946,798	1,077,842	314,396	722,485	[8] 503,146
1928	[6] 24,875,984	100,974	2,043,976	1,182,467	323,310	720,776	436,217
1929	[6] 25,465,036	103,197	2,169,736	1,262,636	362,363	728,428	495,245
1930	[6] 26,051,000	105,661	2,360,767	874,154	361,196	716,730	511,259
1931	[6] 26,094,899	105,953	2,520,738	528,204	307,785	708,622	333,986
1932	[6] 26,086,991	106,337	2,632,922	325,332	226,092	701,500	97,245
1933	[6] 25,901,962	106,437	2,707,942	477,326	213,592	703,745	98,443
1934	[6] 25,681,608	106,279	2,764,726	465,896	203,941	694,360	136,018
1935	[6] 25,500,465	106,339	2,771,404	505,415	186,228	686,688	131,448

[1] Includes investment of operating, lessor, and proprietary companies, except that the year 1924 excludes proprietary companies and includes some duplications in the Atchison, Topeka & Santa Fe system. Proprietary companies do not render annual reports to the Commission but information concerning them is given in reports of the operating companies.

[2] This term as defined in the Interstate Commerce Act means "railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents."

[3] Includes amounts received as interest or dividends on railroad securities owned by reporting carriers. See Statistics of Railways Statement No. 34.

[4] These correspond approximately to what are commonly called "fixed charges."

[5] Does not exclude duplication on account of intercorporate payments. Excludes dividends declared by lessor companies.

[6] Includes investment of lessor and proprietary companies, as follows:

Year	Lessor companies	Proprietary companies	Year	Lessor companies	Proprietary companies
	Thousands	*Thousands*		*Thousands*	*Thousands*
1924	$3,770,322	----------	1930	$4,497,568	$1,095,631
1925	3,961,982	$480,216	1931	4,488,768	1,114,637
1926	3,728,428	831,574	1932	4,578,876	1,121,945
1927	3,915,312	919,095	1933	4,577,564	1,096,264
1928	3,803,075	1,013,752	1934	4,306,287	890,581
1929	3,939,325	1,051,469	1935	4,302,199	861,716

[7] Does not include returns for class II and class III railways.

[8] Includes unusual items amounting to $76,300 (thousands), not representing cash.

TABLE VI.—*Operating revenues, operating expenses, and taxes, class I steam railways, 1924–35*

Year ended Dec. 31—	Operating revenues	Freight revenue	Passenger revenue	Operating expenses	Railway tax accruals [1]	Ratio to revenues		
						Maintenance of way and structures	Maintenance of equipment	Total operating expenses
	Thousands	*Thousands*	*Thousands*	*Thousands*	*Thousands*	*Percent*	*Percent*	*Percent*
1924	$5,921,496	$4,333,585	$1,075,039	$4,507,885	$342,449	13.39	21.28	76.13
1925	6,122,510	4,541,646	1,056,395	4,536,880	360,251	13.34	20.58	74.10
1926	6,382,940	4,797,780	1,041,816	4,669,337	391,160	13.58	20.10	73.15
1927	6,136,300	4,632,321	974,951	4,574,178	378,025	14.15	19.87	74.54
1928	6,111,736	4,680,456	901,019	4,427,995	391,166	13.71	19.09	72.45
1929	6,279,521	4,815,448	872,466	4,506,056	398,385	13.62	19.16	71.76
1930	5,281,197	4,075,698	728,488	3,930,929	350,042	13.36	19.30	74.43
1931	4,188,343	3,248,754	550,250	3,223,575	304,149	12.67	19.51	76.97
1932	3,126,760	2,446,864	376,539	2,403,445	276,061	11.23	19.80	76.87
1933	3,095,404	2,488,848	328,957	2,249,232	251,757	10.41	19.34	72.66
1934	3,271,567	2,629,302	345,890	2,441,823	241,813	11.17	19.50	74.64
1935	3,451,929	2,786,118	357,493	2,592,741	239,441	11.41	19.75	75.11

[1] Includes lessor companies.

TABLE VII.—*Number and compensation of employees, class I steam railways, 1924–35*

Year ended Dec. 31—	Average number of employees during year	Compensation of railway employees [1]		
		Total	Ratio to revenues	Ratio to expenses
		Thousands	*Percent*	*Percent*
1924	1,751,362	$2,825,775	47.72	62.69
1925	1,744,311	2,860,599	46.72	63.05
1926	1,779,275	2,946,114	46.16	63.09
1927	1,735,105	2,910,182	47.43	63.62
1928	1,656,411	2,826,590	46.25	63.83
1929	1,660,850	2,896,566	46.13	64.28
1930	1,487,839	2,550,789	48.30	64.89
1931	1,258,719	2,094,994	50.02	64.99
1932	1,031,703	1,512,816	48.38	62.94
1933	971,196	1,403,841	45.35	62.41
1934	1,007,702	1,519,352	46.44	62.22
1935	994,371	1,643,879	47.62	63.40

[1] In 1935 $1,554,246 (thousands), or 94.55 percent of the reported compensation, was chargeable to operating expenses.

TABLE VIII.—*Transportation service performed by steam railways, 1924–35, excluding switching and terminal companies*

Year ended Dec. 31—	Freight service					Passenger service		
	Revenue tons originated	Revenue tons carried 1 mile	Loaded car-miles	Average haul		Passengers carried	Passenger-miles	Average journey per passenger [1]
				United States as a system	For the individual road			
	Thousands	*Millions*	*Millions*	*Miles*	*Miles*	*Millions*	*Millions*	*Miles*
1924	1,287,413	391,945	16,020	304.44	168.12	950	36,368	38.26
1925	1,351,155	417,418	17,001	308.93	169.43	902	36,167	40.10
1926	1,439,612	447,444	17,925	310.81	170.29	875	35,673	40.79
1927	1,372,547	432,014	17,561	314.75	172.11	840	33,798	40.23
1928	1,371,359	436,087	17,938	318.00	174.14	798	31,718	39.72
1929	1,419,383	450,189	18,358	317.17	174.20	786	31,165	39.63
1930	1,220,134	385,815	15,893	316.21	177.06	708	26,876	37.96
1931	944,846	311,073	13,271	329.23	183.62	599	21,933	36.60
1932	678,854	235,309	10,430	346.63	191.45	481	16,997	35.36
1933	733,391	250,651	10,776	341.77	189.53	435	16,368	37.64
1934	802,276	270,292	11,657	336.91	187.65	452	18,069	39.96
1935	831,656	283,637	12,076	341.05	188.77	448	18,509	41.31

[1] This average is affected by the changing ratio of commutation traffic to the total traffic.

TABLE IX.—*Carload, trainload, and density of traffic, class I steam railways, 1924–35*

Year ended Dec. 31—	Ton-miles, revenue and non-revenue freight per loaded freight car-mile	Revenue ton-miles per train-mile	Passenger-miles per car-mile	Passenger-miles per train-mile	Revenue ton-miles per mile of road	Passenger-miles per mile of road
1924	26.88	647	15	63	1,649,318	153,618
1925	26.86	675	15	63	1,749,147	152,319
1926	27.35	701	14	61	1,875,304	150,280
1927	27.06	702	14	59	1,801,414	141,800
1928	26.59	718	13	56	1,802,703	131,971
1929	26.85	730	13	55	1,851,620	129,011
1930	26.58	711	11	49	1,583,465	111,063
1931	25.63	664	10	45	1,276,861	90,662
1932	24.80	598	10	40	968,772	70,467
1933	25.49	633	10	43	1,035,707	68,100
1934	25.53	637	11	47	1,124,542	75,730
1935	25.85	659	11	47	1,185,368	78,116

TABLE X.—*Average receipts per ton, per ton-mile, per passenger, and per passenger-mile, 1924–35*

Year ended Dec. 31—	Average amount received for each ton originated	Revenue per ton-mile	Average receipts per passenger	Revenue per passenger-mile
		Cents		*Cents*
1924	$3.447	1.132	$1.142	2.985
1925	3.440	1.114	1.181	2.944
1926	3.408	1.096	1.200	2.941
1927	3.445	1.095	1.167	2.901
1928	3.479	1.094	1.134	2.854
1929	3.452	1.088	1.114	2.811
1930	3.397	1.074	1.032	2.719
1931	3.495	1.062	.921	2.515
1932	3.661	1.056	.785	2.221
1933	3.448	1.009	.758	2.015
1934	3.330	.989	.767	1.920
1935	3.404	.998	.800	1.936

TABLE XI.—*Fuel consumed by locomotives, and rails and ties laid, class I steam railways, not including switching and terminal companies, 1924–35*

Year ended Dec. 31—	Bituminous coal	Anthracite coal	Fuel oil		Total fuel [1]	Rails applied in replacement and betterment	Ties laid in previously constructed tracks	
							Crossties	Switch and bridge ties
	Net tons	*Net tons*	*Thousands of gallons*	*Equivalent tons*	*Net tons*	*Long tons*	*Number*	*Feet (b. m.)*
1924	117,247,005	2,678,601	2,475,897	[2]	135,617,320	3,184,536	83,073,059	291,288,388
1925	117,714,426	2,174,143	2,457,827	[2]	135,419,983	3,484,641	82,716,674	282,629,608
1926	122,822,853	2,005,403	2,459,678	[2]	140,425,844	3,818,127	80,745,509	275,971,880
1927	115,882,570	1,603,109	2,429,935	[2]	132,945,460	3,819,115	78,340,182	259,996,468
1928	112,381,588	1,490,261	2,498,144	[2]	129,742,475	3,805,651	77,370,941	269,149,270
1929	113,893,839	1,578,795	2,628,414	[2]	132,137,030	3,610,455	74,679,375	250,062,751
1930	98,399,643	1,139,508	2,366,569	[2]	114,458,305	2,673,674	63,353,828	235,314,604
1931	81,724,711	542,719	2,015,695	[2]	94,924,409	1,714,905	51,501,659	188,594,522
1932	66,497,832	327,484	1,759,124	11,001,819	77,858,747	797,320	39,190,473	140,565,691
1933	66,198,465	477,574	1,709,032	10,668,937	77,384,143	862,298	37,295,716	134,148,930
1934	70,495,547	608,079	1,868,381	11,667,945	82,810,885	986,216	43,306,205	155,248,532
1935	71,334,736	508,229	1,998,176	12,920,919	84,782,729	967,382	44,326,151	156,535,925

[1] In the statement of consumption of fuel by locomotives, 1 cord of hardwood is considered as equivalent to ⅔ of a ton of fuel; and 1 cord of softwood as equivalent to ½ of a ton of fuel. The ratio used in reducing fuel oil to tons of fuel is left to the experience of each road. Figures include data for cordwood, also a small amount of miscellaneous fuel.

[2] Data not available, except approximately by subtraction.

TABLE XII.—*Selected data from annual reports of class I steam railways, 1935 and 1934, by districts*

Item	All districts		Eastern district	
	Year ended Dec. 31—			
	1935	1934	1935	1934
Railway operating revenues (thousands)	$3,451,929	$3,271,567	$1,536,014	$1,459,598
Railway operating expenses:				
Total (thousands)	$2,592,741	$2,441,823	$1,140,102	$1,086,856
Maintenance of way and structures (thousands)	$393,967	$365,300	$151,043	$144,738
Maintenance of equipment (thousands)	$681,887	$637,906	$300,310	$284,699
Transportation—rail line (thousands)	$1,249,389	$1,160,582	$574,377	$541,290
Net railway operating income (thousands)	$499,819	$462,652	$235,123	$206,649
Freight-service statistics:				
Freight revenue (thousands)	$2,786,118	$2,629,302	$1,192,014	$1,120,243
Revenue tons originated (thousands)	789,627	765,296	349,217	344,502
Total revenue tons carried (thousands)	1,427,042	1,369,733	740,928	714,659
Revenue tons carried 1 mile (thousands)	282,036,932	268,710,507	116,628,620	112,261,071
Revenue per ton-mile (cents)	0.988	0.978	1.022	0.998
Revenue ton-miles per mile of road	1,185,368	1,124,542	1,984,121	1,900,572
Freight train-miles (thousands)	397,903	391,005	142,319	141,777
Revenue ton-miles per train-mile	659.14	637.03	792.11	764.69
Loaded car-miles (thousands)	12,011,129	11,591,132	4,622,608	4,483,768
Empty car-miles (thousands)	7,285,187	7,457,073	2,762,413	2,879,227
Ton-miles revenue and nonrevenue freight per loaded car-mile	25.85	25.53	27.16	27.02
Average haul per road (miles)	197.64	196.18	157.41	157.08
Passenger-service statistics:				
Passenger revenue (thousands)	$357,493	$345,890	$207,556	$206,180
Passengers carried (thousands)	445,872	449,775	318,885	321,407
Passenger-miles (thousands)	18,475,572	18,033,309	9,777,007	9,934,665
Revenue per passenger-mile (cents)	1.93	1.92	2.12	2.08
Passenger-miles per mile of road	78,116	75,730	168,351	170,248
Average journey per passenger (miles)	41.44	40.09	30.66	30.91
Passenger-miles per train-mile	47	47	60	60

Item	Southern district		Western district	
	Year ended Dec. 31—			
	1935	1934	1935	1934
Railway operating revenues (thousands)	$644,018	$611,012	$1,271,897	$1,200,957
Railway operating expenses:				
Total (thousands)	$462,904	$432,328	$989,735	$922,639
Maintenance of way and structures (thousands)	$75,083	$70,506	$167,841	$150,056
Maintenance of equipment (thousands)	$133,225	$121,358	$248,352	$231,849
Transportation—rail line (thousands)	$208,523	$194,201	$466,489	$425,091
Net railway operating income (thousands)	$124,159	$121,253	$140,537	$134,750
Freight-service statistics:				
Freight revenue (thousands)	$549,995	$521,053	$1,044,109	$988,006
Revenue tons originated (thousands)	190,814	184,608	249,596	236,636
Total revenue tons carried (thousands)	282,743	271,955	403,371	383,119
Revenue tons carried 1 mile (thousands)	65,151,873	62,366,518	100,256,439	94,082,918
Revenue per ton-mile (cents)	0.844	0.835	1.041	1.050
Revenue ton-miles per mile of road	1,441,860	1,373,561	748,378	699,610
Freight train-miles (thousands)	82,881	82,244	172,703	166,984
Revenue ton-miles per train-mile	737.41	709.26	521.36	502.91
Loaded car-miles (thousands)	2,334,570	2,254,900	5,053,951	4,852,464
Empty car-miles (thousands)	1,459,099	1,515,236	3,063,675	3,062,610
Ton-miles revenue and nonrevenue freight per loaded car-mile	30.26	30.08	22.62	22.05
Average haul per road (miles)	230.43	229.33	248.55	245.57
Passenger-service statistics:				
Passenger revenue (thousands)	$46,429	$44,751	$103,508	$94,959
Passengers carried (thousands)	47,427	50,964	79,560	77,404
Passenger-miles (thousands)	2,608,807	2,505,667	6,089,758	5,592,977
Revenue per passenger-mile (cents)	1.78	1.79	1.70	1.70
Passenger-miles per mile of road	57,735	55,185	45,700	41,624
Average journey per passenger (miles)	55.01	49.17	76.54	72.26
Passenger-miles per train-mile	38	37	39	37

B. STATISTICS FROM MONTHLY AND OTHER PERIODICAL REPORTS OF CARRIERS

TABLE A–1.—*Railway operating revenues, railway operating expenses, and net railway operating income, by months, 1932–36, class I steam railways, excluding switching and terminal companies*

Item	1936	1935	1934	1933	1932
Miles of road operated	236,909	237,083	238,432	239,830	241,464
RAILWAY OPERATING REVENUES					
January	$299,098,677	$264,196,765	$258,014,518	$226,555,138	$272,115,638
February	300,458,829	254,927,606	248,457,240	212,154,010	264,223,643
March	308,303,721	280,890,306	293,200,600	218,102,308	286,678,762
April	313,409,628	274,663,066	265,405,936	224,859,043	264,885,724
May	320,966,498	279,527,573	282,039,312	255,241,377	251,921,716
June	330,691,513	281,328,059	282,779,494	278,329,371	243,545,252
July	349,743,963	275,307,554	276,009,904	293,723,873	235,331,184
August	350,584,819	293,989,544	282,726,349	297,030,893	249,388,763
September	357,206,662	306,946,095	275,539,654	292,158,839	269,532,670
October		341,017,864	292,910,283	294,351,519	295,175,402
November		301,330,508	256,975,741	257,685,947	250,743,761
December		296,225,234	257,507,786	245,346,958	243,346,573
12 months		[1]3,450,495,033	[1]3,271,566,817	[1]3,095,620,730	[1]3,126,889,091
RAILWAY OPERATING EXPENSES					
January	$231,778,646	$212,402,473	$195,866,223	$181,679,759	$227,032,393
February	235,906,241	199,585,654	188,605,784	171,334,067	208,748,915
March	236,578,646	212,724,302	209,270,377	175,724,396	219,202,317
April	235,072,729	209,415,791	200,203,269	173,299,381	209,383,103
May	240,233,615	209,260,315	210,028,161	181,578,428	205,222,149
June	241,811,554	216,550,258	208,313,248	185,342,623	197,295,766
July	248,365,852	218,022,451	208,492,885	194,925,735	189,814,008
August	246,299,474	221,353,467	211,085,590	202,470,715	187,646,632
September	248,553,260	218,071,436	203,220,057	199,434,708	187,404,992
October		232,515,601	211,963,280	204,713,069	198,057,765
November		218,583,399	196,986,279	191,841,964	187,695,866
December		225,826,310	194,754,363	187,098,404	186,039,882
12 months		[1]2,591,496,321	[1]2,438,789,519	[1]2,249,535,599	[1]2,403,543,795
MAINTENANCE OF WAY AND STRUCTURES					
January	$30,423,206	$27,695,615	$25,164,083	$22,654,703	$29,979,256
February	32,414,518	25,564,946	25,125,783	21,641,459	28,529,693
March	34,183,434	27,798,280	28,512,486	22,629,337	30,832,823
April	36,301,551	30,824,724	30,137,916	24,446,085	32,505,378
May	40,759,922	34,649,696	35,053,922	27,322,978	33,950,751
June	42,643,920	37,058,846	35,612,345	28,806,978	32,712,584
July	42,464,048	38,051,067	34,356,187	30,406,511	29,449,033
August	41,934,006	39,113,014	34,197,619	32,773,968	28,990,487
September	42,116,399	36,777,814	31,502,165	31,603,107	28,059,110
October		36,335,719	32,637,405	30,966,629	28,971,595
November		31,398,220	27,666,391	26,075,644	26,012,791
December		29,937,958	25,333,315	23,033,829	21,227,046
12 months		[1]393,642,261	[1]365,299,619	[1]322,386,146	[1]351,220,552

[1] Includes certain corrections not appearing in monthly figures.

TABLE A–1.—*Railway operating revenues, railway operating expenses, and net railway operating income, by months, 1932–36, class I steam railways, excluding switching and terminal companies*—Continued

MAINTENANCE OF EQUIPMENT

Month	1936	1935	1934	1933	1932
January	$61,833,071	$55,228,363	$52,695,622	$47,591,908	$57,623,583
February	62,350,442	53,086,512	50,533,268	44,989,855	54,624,880
March	64,159,933	56,915,874	57,556,955	45,865,737	57,438,716
April	64,233,358	55,278,370	55,124,794	45,247,799	54,211,080
May	63,861,075	57,033,921	56,797,361	46,933,372	52,293,139
June	64,138,263	56,076,421	55,449,801	48,139,176	49,727,745
July	65,514,176	55,828,044	53,916,824	51,675,006	47,983,351
August	65,012,269	55,734,803	53,244,623	55,536,120	47,162,915
September	66,402,281	55,420,760	50,509,476	54,199,249	47,508,833
October		60,998,558	53,106,453	55,342,545	50,544,039
November		58,129,857	50,354,771	52,748,349	49,372,150
December		62,277,274	48,615,664	50,476,834	50,453,810
12 months		[1] 681,784,261	[1] 637,905,613	[1] 598,770,464	[1] 618,944,243

TRANSPORTATION EXPENSES

January	$115,593,652	$104,590,316	$96,304,518	$89,763,733	$113,562,985
February	117,851,406	97,444,250	92,049,397	84,296,230	101,363,672
March	114,668,681	103,544,164	101,642,426	86,821,586	106,434,652
April	110,913,605	102,258,211	93,589,066	83,301,406	98,559,140
May	111,881,377	103,195,616	96,587,481	86,841,836	95,384,914
June	110,702,816	101,343,297	95,237,751	87,639,606	91,431,759
July	115,702,380	102,069,242	97,896,996	91,890,401	90,044,813
August	115,595,435	104,179,112	98,822,396	93,127,844	89,710,648
September	116,220,055	103,868,344	96,659,365	92,711,056	90,378,101
October		112,637,573	101,400,074	97,047,599	97,143,352
November		106,870,300	95,597,925	92,234,887	91,404,685
December		110,789,636	98,278,441	92,379,096	92,390,626
12 months		[1] 1,252,439,672	[1] 1,164,065,840	[1] 1,078,093,344	[1] 1,157,809,345

NET RAILWAY OPERATING INCOME [2]

January	$35,764,748	$21,934,644	$31,058,276	$13,585,011	$11,182,051
February	33,594,716	26,296,412	29,420,777	10,133,779	21,614,192
March	35,205,514	38,129,871	52,217,080	10,805,518	32,584,468
April	41,547,644	34,708,718	32,433,940	19,351,463	20,273,159
May	41,842,147	39,598,511	39,699,193	41,042,629	11,665,704
June	50,312,581	34,102,703	42,037,758	59,831,292	12,299,666
July	61,773,764	26,919,343	35,441,264	64,752,602	11,287,422
August	64,680,718	42,156,706	40,564,069	61,401,984	27,985,137
September	70,166,026	57,349,265	41,713,426	60,608,882	48,947,045
October		75,425,091	49,336,307	57,366,046	62,784,036
November		54,234,306	32,540,505	37,662,122	33,396,308
December		46,037,382	39,225,994	37,726,341	32,304,894
12 months		[1] 500,069,148	[1] 465,688,588	[1] 474,212,304	[1] 326,317,936

[1] Includes certain corrections not appearing in monthly figures.
[2] For meaning of this term see table V, footnote 2.

TABLE A–2.—*Other income and deductions, by months, 1932–36, class I steam railways, excluding switching and terminal companies*

OTHER INCOME

Month	1936	1935	1934	1933	1932
January	$11,886,528	$12,343,875	$13,738,086	$13,827,017	$15,306,580
February	9,980,838	11,536,344	12,158,164	13,078,126	15,532,774
March	11,927,043	13,563,477	14,641,419	14,431,460	17,857,336
April	11,790,216	13,182,312	13,237,600	13,150,656	16,480,305
May	11,311,118	11,653,854	13,346,790	13,187,345	15,366,510
June	14,615,582	16,200,992	21,075,926	19,199,444	24,052,610
July	12,550,950	12,336,382	14,467,099	16,209,509	15,086,820
August	11,238,162	11,154,287	12,889,800	13,056,218	14,442,235
September		12,117,707	13,398,438	13,137,696	14,668,579
October		12,196,536	13,371,466	13,618,658	14,710,734
November		11,495,138	12,514,091	13,616,973	14,388,875
December		35,111,624	29,034,854	37,129,929	34,028,788
12 months		[1] 175,037,521	[1] 184,851,813	[1] 193,471,482	[1] 211,939,647

INTEREST, RENTS, AND OTHER DEDUCTIONS

January	$55,565,175	$55,666,141	$56,381,700	$57,121,128	$56,046,746
February	55,249,846	55,662,605	55,928,349	56,686,660	56,148,725
March	55,449,018	55,855,016	56,227,923	56,915,380	56,489,164
April	55,633,197	56,057,943	56,399,850	57,268,530	56,861,072
May	55,572,840	55,920,357	56,383,253	57,194,994	56,823,516
June	56,025,703	55,657,702	56,936,045	57,611,869	56,984,981
July	55,040,968	55,217,099	56,642,997	51,114,474	57,182,223
August	55,061,549	55,615,994	56,280,895	57,079,239	57,226,065
September		55,934,022	56,291,027	56,718,253	56,978,163
October		56,393,596	56,449,457	57,070,742	57,439,557
November		55,788,673	56,462,181	56,395,563	57,698,807
December		58,700,679	58,646,600	60,117,200	62,659,383
12 months		[1] 675,379,308	[1] 679,978,864	[1] 681,463,649	[1] 688,891,373

NET INCOME [2]

January	*$7,913,897*	*$21,389,720*	*$11,585,335*	*$29,709,107*	*$29,438,487*
February	*11,674,293*	*17,829,851*	*14,349,408*	*33,474,755*	*18,882,369*
March	*8,316,462*	*4,161,666*	10,630,572	*31,678,401*	*6,047,494*
April	*2,295,339*	*8,166,910*	*10,728,312*	*24,765,528*	*20,107,743*
May	*2,419,574*	*4,667,992*	*3,337,269*	*2,969,360*	*29,791,305*
June	8,902,459	*5,354,012*	6,177,638	21,418,915	*20,632,703*
July	19,283,305	*15,961,373*	*6,734,635*	29,847,641	*30,808,001*
August	20,857,329	*2,304,998*	*2,827,109*	17,378,968	*14,798,693*
September		13,542,934	*1,179,163*	17,028,325	6,637,459
October		31,228,033	6,258,314	13,913,954	20,055,214
November		9,940,703	*11,407,487*	*5,116,463*	*9,913,630*
December		22,449,453	9,614,249	14,739,068	3,674,305
12 months		[1] *287,538*	[1] *29,438,445*	[1] *13,779,866*	[1] *150,633,819*

[1] Includes certain corrections not appearing in monthly figures.
[2] Deficit in italics.

TABLE B.—*Analysis of operating revenues and expenses, class I steam railways, excluding switching and terminal companies, 1934–36*

Item	9 months, January to September, inclusive		Calendar year—	
	1936	1935	1935	1934
Operating revenues:				
Freight	$2,385,034,198	$2,027,742,418	$2,789,335,328	$2,633,399,094
Passenger	307,232,396	267,052,512	357,900,740	346,324,990
Mail	68,738,314	66,957,963	92,032,046	91,139,845
Express	42,063,007	38,576,002	53,324,415	54,013,021
All other	127,396,395	111,450,232	157,902,504	146,689,867
Total	2,930,464,310	2,511,779,127	3,450,495,033	3,271,566,817
Percent of total:				
Freight	81.39	80.73	80.84	80.49
Passenger	10.48	10.63	10.37	10.59
Mail	2.35	2.67	2.67	2.79
Express	1.43	1.53	1.54	1.65
All other	4.35	4.44	4.58	4.48
Operating expenses:				
Maintenance of way and structures	343,241,002	297,532,028	393,642,261	365,299,619
Maintenance of equipment	577,504,867	500,605,348	681,784,261	637,905,613
Traffic	74,486,406	70,617,288	94,183,134	89,249,453
Transportation	1,029,131,205	922,497,997	1,252,439,672	1,164,065,840
General	117,521,551	106,139,354	[1] 142,858,900	158,492,119
All other	22,716,781	20,001,190	26,588,093	23,776,875
Total	2,164,601,812	1,917,393,205	2,591,496,321	2,438,789,519
Percent of total:				
Maintenance of way and structures	15.86	15.52	15.19	14.98
Maintenance of equipment	26.68	26.11	26.31	26.16
Traffic	3.44	3.68	3.63	3.66
Transportation	47.54	48.11	48.33	47.73
General	5.43	5.54	5.51	6.50
All other	1.05	1.04	1.03	.97
Railway tax accruals	[2] 231,403,928	182,517,653	236,793,115	239,621,831
Uncollectible railway revenues	[3]	[3]	1,201,245	1,166,240
Equipment rents—debit	70,194,925	64,193,554	85,344,008	89,848,863
Joint facility rent—debit	29,399,641	26,472,946	35,591,196	36,451,776
Net railway operating income	434,864,004	321,201,769	500,069,148	465,688,588

[1] Decrease in general expenses, 1935 under 1934, due largely to reversal of charges previously made under the Railroad Retirement Act of 1934.

[2] Increase in railway tax accruals, 1936 over 1935, due largely to charges under the requirements of an act of Aug. 29, 1935, (Pub. No. 400, 74th Cong.) and the Social Security Act, approved Aug. 14, 1935 (Pub. No. 271, 74th Cong.).

[3] Uncollectible railway revenues (account 533) eliminated Jan. 1, 1936.

TABLE C.—*Ton-miles of freight (revenue and nonrevenue), by months, 1932–36, class I steam railways*

Month	1936	1935	1934	1933	1932
	Millions	*Millions*	*Millions*	*Millions*	*Millions*
January	27,858	24,967	23,771	19,987	22,855
February	29,153	24,124	23,199	19,118	21,718
March	27,992	27,598	27,796	19,351	23,580
April	28,145	23,340	23,475	19,831	21,259
May	29,894	24,672	25,262	21,734	19,872
June	28,760	25,951	25,208	23,710	18,673
July	31,144	23,174	24,260	26,408	19,065
August	32,076	25,938	25,405	26,464	20,071
September	33,049	27,731	25,889	26,130	22,709
October	----------	31,200	26,504	26,414	26,375
November	----------	27,468	23,785	23,937	21,759
December	----------	26,175	23,102	22,000	21,107
12 months	----------	[1] 312,247	[1] 297,656	[1] 275,082	[1] 259,049

[1] Includes certain corrections not appearing in monthly figures.

TABLE D.—*Selected operating averages in freight and passenger service of class I steam railways in the United States, 1934–36*

Item	8 months, January to August, inclusive		Calendar year—	
	1936	1935	1935	1934
Average miles of road included	235,106	236,276	235,903	237,146
Net ton-miles per mile of road per day	4,097	3,480	3,626	3,439
Percent of freight locomotives unserviceable	31.4	33.7	34.4	33.9
Percent of freight cars unserviceable	13.4	14.0	14.0	14.6
Percent loaded of total car-miles	63.0	62.2	62.3	60.9
Percent east-bound or north-bound of loaded car-miles	58.0	58.2	58.4	59.2
Car-miles per car-day	29.4	24.9	25.8	24.2
Net ton-miles per car-day	489	399	416	377
Net ton-miles per loaded car-mile	26.4	25.7	25.9	25.6
Car-miles per train-mile	45.9	45.7	46.2	46.2
Gross ton-miles per train-mile (excluding locomotives and tenders)	1,830	1,782	1,795	1,765
Net ton-miles per train-mile (including non-revenue tons)	754	721	731	706
Average miles per hour, trains in freight service	15.9	16.1	16.0	15.9
Pounds of coal per 1,000 gross ton-miles (including locomotives and tenders)	120	120	120	122
Average cost of coal per ton (including freight charges)	$2.37	$2.26	$2.27	$2.20
Revenue per ton-mile	$0.00984	$0.00989	$0.00988	$0.00979
Average haul per revenue ton:				
Per railroad	198.8	199.4	198.3	197.6
United States as a system	(1)	(1)	357.2	351.1
Number of freight-train miles	314,180,780	279,325,063	427,019,181	421,384,177
Number of passenger-train miles	267,200,962	258,596,715	390,104,416	386,462,810
Number of passenger-train car-miles	1,855,661,660	1,773,589,642	2,709,199,080	2,647,405.269
Passenger-train cars per train	7.6	7.6	7.6	7.6
Revenue per passenger per mile:				
Including commutation passengers	$0.0187	$0.0195	$0.0193	$0.0192
Excluding commutation passengers	$0.0206	$0.0219	$0.0218	$0.0217

[1] Data not available.

TABLE E.—*Average number of employees and total compensation, by groups of employees, 8 months, January to August, inclusive, class I steam railways, excluding switching and terminal companies*

Groups of employees	8 months, January to August, inclusive			
	Average number of employees middle of month		Total compensation	
	1936	1935	1936	1935
			Thousands	*Thousands*
I. Executives, officials, and staff assistants	11,973	11,936	$44,144	$42,805
II. Professional, clerical, and general	165,660	162,981	201,932	193,979
III. Maintenance of way and structure	221,998	205,893	166,160	146,320
IV. Maintenance of equipment and stores	291,825	270,160	306,481	262,402
V. Transportation (other than train, engine, and yard)	125,666	122,478	126,751	119,679
VI. (a). Transportation (yardmasters, switch tenders, and hostlers)	12,671	12,213	19,647	18,141
VI (b). Transportation (train and engine service)	221,130	204,970	344,023	297,243
All employees	1,050,923	990,631	1,209,138	1,080,569

TABLE F.—*Carloads and tons of commodities originated and freight revenue, by commodity groups, calendar year 1935, class I steam railways*

Commodity groups	Number of carloads	Number of tons (2,000 pounds)	Freight revenue
Products of agriculture	3,024,211	76,337,562	$429,706,167
Animals and products	1,202,905	15,125,428	157,615,176
Products of mines	8,547,018	445,136,273	853,236,674
Products of forests	1,414,811	42,482,832	156,543,460
Manufacturers and miscellaneous	7,590,812	196,505,866	1,065,041,481
Grand total, carload traffic	21,779,757	775,587,961	2,662,142,958
All l. c. l. freight		14,038,753	225,667,989
Grand total, carload and l. c. l. traffic		789,626,714	2,887,810,947

TABLE G.—*Summary of casualties to persons on steam railways in the United States for the years ended Dec. 31, 1935, 1934, 1933, 1932, and 1931* [1]

Class of persons	Number of persons									
	1935		1934		1933		1932		1931	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
1. Trespassers	2,643	2,690	2,566	2,781	2,747	3,591	2,435	3,354	2,334	2,958
2. Employees:										
Trainmen on duty	282	6,018	281	6,079	268	5,772	278	6,534	303	8,579
Other employees	184	744	154	724	152	694	168	749	211	997
Total employees	466	6,762	435	6,803	420	6,466	446	7,283	514	9,576
3. Passengers on trains	18	1,872	27	1,870	38	1,972	13	1,817	25	2,004
4. Travelers not on train	7	68	8	70	10	84	6	84	10	83
5. Persons carried under contract	3	237	4	317	4	345	5	318	9	350
6. Other nontrespassers	1,752	4,962	1,612	4,605	1,597	4,014	1,615	4,291	1,956	5,064
Total, train and train service	4,889	16,591	4,652	16,446	4,816	16,472	4,520	17,147	4,848	20,035
7. Casualties in nontrain accidents [2]	218	11,489	227	12,185	203	11,022	223	12,062	246	15,599
8. Casualties at grade crossings [3]	1,680	4,658	1,554	4,300	1,511	3,697	1,525	3,989	1,811	4,657

[1] Figures relating to suicides, persons mentally deranged, and persons attempting to escape custody are excluded. There were 151 fatalities and 28 injuries of this nature in 1935.
[2] Not included in preceding total.
[3] Included in preceding total and distributed under various heads, chiefly item 6.

APPENDIX D

LIST OF REPORTED RATE AND VALUATION CASES

Volumes included; 210 (balance), 211, 213, 214, 215 (part), 216 (part), 218 (part), 47 Val. Rep. (part).

A. Bender & Sons *v.* Cleveland, C., C. & St. L. Ry. Co., 211 I. C. C. 363.
Abotts Dairies, Inc., *v.* Minneapolis, St. P. & S. S. M. Ry. Co., 216 I. C. C. 661.
Ace Petroleum Co. *v.* Atchison, T. & S. F. Ry. Co., 211 I. C. C. 555.
Acker *v.* Alton R. Co., 213 I. C. C. 162 .
Acme Steel Co. Terminal Allowance, 215 I. C. C. 373.
Adams & Co., see George A. Adams & Co.
Adams & Dodge *v.* New York, N. H. & H. R. Co., 216 I. C. C. 163.
Adkins Hay & Feed Co. *v.* Atchison, T. & S. F. Ry. Co., 214 I. C. C. 685.
A. E. Meyer & Co. *v.* Atlantic Coast Line R. Co., 213 I. C. C. 375, 216 I. C. C. 108.
A. E. Staley Mfg. Co. Terminal Allowance, 215 I. C. C. 656.
Agricultural Implements to Idaho, Oregon, and Utah, 214 I. C. C. 691.
Air Mail Compensation, 216 I. C. C. 166.
Air Mail Rates for Route No. 31, 214 I. C. C. 387.
Air Mail Rates for Route No. 33, 216 I. C. C. 381.
A. Jacob & Co. *v.* New York Central R. Co., 211 I. C. C. 278.
Alabama By-Products Corp. Terminal Service, 210 I. C. C. 644.
Alabama Grocery Co. *v.* Atchison, T. & S. F. Ry. Co., 213 I. C. C. 226.
Alabama Oil Co. of Huntsville, Ala., *v.* Alabama G. S. R. Co., 210 I. C. C. 791.
Alabama Rock Asphalt, Inc., *v.* Akron & B. B. R. Co., 216 I. C. C. 505.
Alabama State Docks Comm. *v.* Alabama, T. & N. R. Corp., 214 I. C. C. 363.
Albemarle Navigation Co. Rates, 213 I. C. C. 650.
Alcoholic Liquors to New Orleans, La., 213 I. C. C. 708.
Alemite Corp. *v.* Baltimore & O. R. Co., 215 I. C. C. 371.
Alton R. Co. *v.* Akron, C. & Y. Ry. Co., 215 I. C. C. 317.
American Crystal Sugar Co. *v.* Atchison, T. & S. F. Ry. Co., 210 I. C. C. 797.
American Fruit Co., Inc., *v.* Rapid City, B. H. & W. R. Co., 214 I. C. C. 531.
American Fruit Growers, Inc., *v.* Akron, C. & Y. Ry. Co., 215 I. C. C. 379.
American Packing & Provision Co. *v.* Union Pac. R. Co., 216 I. C. C. 613.
American Salt Corp. *v.* Atchison, T. & S. F. Ry. Co., 216 I. C. C. 284.
American Steel Foundries Terminal Allowances, 216 I. C. C. 13.
American Sugar Refining Co. *v.* Louisville & N. R. Co., 214 I. C. C. 481.
Amherst Elevator Co. *v.* Atchison, T. & S. F. Ry. Co., 214 I. C. C. 603.
Anchor Storage Co. *v.* Alton R. Co., 211 I. C. C. 307.
Andalusia Grocery Co *v.* Central of Georgia Ry. Co., 213 I. C. C. 173.
Anthracite Coal from Pennsylvania to Rutland, Vt., 214 I. C. C. 4.
Anthracite Coal to New England Territory, 213 I. C. C. 744.
A. O. Smith Corp. Terminal Allowance, 215 I. C. C. 534.
Apples from Pacific Coast to Illinois, Indiana, and South, 213 I. C. C. 4.
Application of Union Lbr. Co., 213 I. C. C. 415.
Armour & Co. *v.* Chicago, B. & Q. R. Co., 215 I. C. C. 537.
Armour & Co., *v.* Cleveland, C., C. & St. L. Ry. Co., 213 I. C. C. 476.
Armstrong Cork & Insulation Co. *v.* Alton & S. R., 214 I. C. C. 611.
Arnold Automobile Co. *v.* Alton & S. R., 215 I. C. C. 19.
Arnold Co. see P. B. Arnold Co.
A. S. Nowlin & Co. *v.* Chesapeake & O. Ry. Co., 213 I. C. C. 101, 216 I. C. C. 95.
Asphalt to the South, 215 I. C. C. 525.
Asphaltic Stone and Paving Materials from the South, 214 I. C. C. 145.
Atlantic Terra Cotta Co. v. Chicago & I. M. Ry. Co., 215 I. C. C. 436.

Terminal Allowances at Ashland, Ky., 213 I. C. C. 603.
Texas Co. *v.* Atchison, T. & S. F. Ry. Co., 213 I. C. C. 9.
Texas Co. Terminal Allowances at Port Arthur, Tex., 213 I. C. C. 583.
Texas Ports Equalization of Rates, 211 I. C. C. 371.
Thomas Fruit Co., Inc., *v.* Kansas City S. Ry. Co., 213 I. C. C. 379.
Thomas Keery Co., Inc., *v.* New York, O. & W. Ry. Co., 211 I. C. C. 451.
Time Limit on Tobacco Expense Bills in New York Harbor, 210 I. C. C. 638.
Tobacco to Dallas and Fort Worth, Tex., 213 I. C. C. 523.
Traffic Bureau, Lynchburg Chamber of Commerce *v.* Chesapeake & O. Ry. Co., 210 I. C. C. 784.
Traffic Bureau, Lynchburg Chamber of Commerce *v.* Louisville & N. R. Co., 216 I. C. C. 211.
Traffic Bureau, Lynchburg Chamber of Commerce *v.* Norfolk & W. Ry. Co., 214 I. C. C. 461.
Traffic Bureau, Lynchburg Chamber of Commerce v. Southern Ry. Co., 213 I. C. C. 392, 215 I. C. C. 641.
Transcontinental & W. Air, Inc., San Francisco Operation, 213 I. C. C. 551, 214 I. C. C. 552.
Transcontinental Traffic Routed via Bieber, Calif., 213 I. C. C. 487.
Transit on Canned Goods in Pacific Northwest, 216 I. C. C. 754.
Transit on Rice at New Orleans, 211 I. C. C. 49.
Transportation of Caretakers with Perishable Freight, 213 I. C. C. 590.
Trucks on Flat Cars between Chicago and Twin Cities, 216 I. C. C. 435.
Truman-Smith Construction Co. *v.* Atchison, T. & S. F. Ry. Co., 213 I. C. C. 771.
Union Asphalt Co. *v.* Chicago, R. I. & P. Ry. Co., 214 I. C. C. 87.
Union Iron Works *v.* New York Central R. Co., 215 I. C. C. 62.
Union Traction Co. Commodity Rates, 211 I. C. C. 318.
Union Underwear Co., Inc., *v.* Frankfort & C. R. Co., 214 I. C. C. 695.
United States *v.* Baltimore & O. R. Co., 211 I. C. C. 208.
United States Shellac Importers Assn., Inc., *v.* Baltimore & O. R. Co., 215 I. C. C. 396.
Utah I. C. R. Co., 214 I. C. C. 707.
Valente & Co., see A. Valente & Co.
Vaughn Drilling Co., see G. H. Vaughn Drilling Co.
Vegetable Oils from Atlantic Ports, 213 I. C. C. 669.
Von Platen Fox Co. *v.* Ann Arbor R. Co., 214 I. C. C. 432.
Wabash Screen Door Co. *v.* Canadian Pac. Ry. Co., 214 I. C. C. 653.
Waldo Grain Co. *v.* Missouri Pac. R. Co., 211 I. C. C. 175.
Wallace Coal Co., see E. J. Wallace Coal Co.
Ware Bros. Agency *v.* St. Louis-S. F. Ry. Co., 213 I. C. C. 661.
Warren Foundry & Pipe Corp. Terminal Allowance, 215 I. C. C. 653.
Washburn Crosby Co. *v.* Chicago, B. & Q. R. Co., 215 I. C. C. 53.
Weil *v.* Louisville & N. R. Co., 215 I. C. C. 28.
West Texas Produce Co., Inc., v. Texas & P. Ry. Co., 210 I. C. C. 787.
Westchester Rail Coal Dealers Bureau *v.* Delaware, L. & W. R. Co., 215 I. C. C. 642.
Western Cement Rates, 213 I. C. C. 611.
Western Term. Elevator Co. *v.* Chicago, R. I. & P. Ry. Co., 211 I. C. C. 337.
Weyl-Zuckerman & Co. *v.* Alabama, T. & N. R. Corp., 210 I. C. C. 565.
Wharton, Jr., & Co., Inc., see William Wharton, Jr., & Co., Inc.
W. H. Bintz Co. *v.* Abilene & S. Ry. Co., 216 I. C. C. 481.
Wheeling Steel Corp. Terminal Allowances, 214 I. C. C. 53.
Whitall Tatum Co. *v.* Western Maryland Ry. Co., 215 I. C. C. 269.
W. H. Loomis Talc Corp. *v.* Baltimore & O. R. Co., 211 I. C. C. 687.
W. H. Mouser & Co. *v.* New York Central R. Co., 211 I. C. C. 123.
Wickes Boiler Co. *v.* Great Northern Ry. Co., 211 I. C. C. 44.
Willard *v.* Baltimore & O. R. Co., 216 I. C. C. 683.
William Kelly Milling Co. *v.* Atchison, T. & S. F. Ry. Co., 211 I. C. C. 53.
William Wharton, Jr., & Co., Inc., Terminal Allowance, 215 I. C C. 623.
Williams & Sons, see Ichabod T. Williams & Sons.
Wilson & Toommer Fertilizer Co. *v.* Chesapeake & O. Ry. Co., 215 I. C. C. 222.
Wire Rods Westbound to Pacific Coast, 214 I. C. C. 561.
Wirebound Box Mfrs. Assn., Inc., *v.* Aberdeen & R. R. Co., 216 I. C. C. 667.
Wolfe Fruit Co. *v.* Beaumont, S. L. & W. Ry. Co., 211 I. C. C. 661.
Wooden Tank Material in Southern Territory, 214 I. C. C. 455.
Wrapping Paper and Paper Bags to Jacksonville, Fla., 210 I. C. C. 687.
Youngstown Chamber of Commerce *v.* Akron, C. & Y. Ry. Co., 213 I. C. C. 457.
Zinc By-Products from Pittsburgh, Pa., to Philadelphia, Pa., 216 I. C. C. 199.

APPENDIX E

DIGEST OF FEDERAL COURT DECISIONS

A discussion of court decisions involving injunctions to restrain enforcement of orders of this Commission and of decisions relative to criminal violations of the law can be found in the text of this report. The decisions abstracted herein involve questions of regulation which are concerned with, or closely related to, matters arising before this Commission.

ACCOUNTING RULES

New York Central R. Co. v. *Commissioner of Internal Revenue*, 79 Fed. (2d) 247, second circuit: Accounting rules enforced upon a carrier by the Commission are not controlling in the determination of tax liability. (To the same effect, *Gulf, M. & N. R. Co.* v. *Commissioner of Internal Revenue*, 83 Fed. (2d) 788, fifth circuit.)

American Teleph. & Teleg. Co. v. *United States*, 14 Fed. Supp. 121, southern district, New York: Laying down a system of accounts under sec. 20 (5) of the act and sec. 220 (a) of the Communications Act, is a legislative rather than a judicial function. It is making a new rule to be applied in the future, not applying an already existent rule to past facts. An administrative body may exercise a delegated legislative function without first reporting the data upon which it decided that the proposed rule should be established. Sections 404 and 220 (a) of the Communications Act are identical with sec. 14 (1) and sec. 20 (5) of the Interstate Commerce Act. It has not been the practice of the Interstate Commerce Commission to preface its general accounting orders with reports, and the incorporation of these sections in the Communications Act is an indication that Congress approved this administrative interpretation. (Not arising under Interstate Commerce Act, but involving the Commission's Uniform system of Accounts for Telephone Companies, 1933.)

BANKRUPTCY ACT

Lowden v. *Northwestern Natl. Bank & Trust Co.*, 11 Fed. Supp. 929, district of Minnesota, fourth division: A creditor of a railway corporation reorganizing under section 77 of the bankruptcy act has the right of set-off. An adjudication accelerates the maturity of an unmatured debt owing by the railroad. Though the company has not specifically admitted insolvency, nor been adjudged a bankrupt, sec. 77 (n) is unambiguous to the effect that the rights and liabilities of creditors as to the debtor and its property shall be the same as if a voluntary petition had been filed and the debtor adjudicated a bankrupt.

In re Denver & R. G. W. R. Co., 12 Fed. Supp. 821, district of Colorado: The Bankruptcy Act does not confer the right to notice to creditors, stockholders, or mortgage trustees, nor does it include the right to initiate proceedings without the court's permission. The right of intervention is within the court's sound discretion. Jurisdiction of the district court depends on due notice to all interested parties and full hearing of parties. Trustees under mortgage on railroad's property may intervene, but the fact trustees represented numerous beneficiaries or large amounts is not controlling as regards their right to intervene.

In re Missouri Pac. R. Co., 12 Fed. Supp. 8288, eastern district, Missouri: The court may refer to a special master circumstances attending the making of alleged improvident and unlawful contracts, for investigation and report. The question of what is necessary to the maintenance and operation of a railroad, arising as to its contracts contested as ultra vires, is one of law to be decided by the courts. Contracts for purchase of real estate suitable and intended only for

industrial, business, and residential purposes, or stock of corporations holding and dealing in such properties, were ultra vires of the debtor's powers, under the State law and in contravention of the Clayton Act; each ordered disaffirmed by the trustee.

CERTIFICATES OF CONVENIENCE AND NECESSITY

Pennsylvania R. Co. v. *Pittsburgh, L. & W. Ry. Co.*, 83 Fed. (2d) 861, Sixth Circuit: A coal company mining and marketing coal, which constructed a private railroad track connected with the spur of its subsidiary railroad company, transporting its own coal over its own tracks in its own cars, is not engaged in "interstate commerce" for which certificate of convenience and necessity could be required, nor is the track described an extension of the subsidiary's line.

COMMERCE CLAUSE

Pacific States Box & Basket Co. v. *White*, 296 U. S. 176: A regulation by a State prescribing standards for containers in which horticultural products are marketed which does not affect the importation of other kinds of containers, but only their use after they have come into the State and been taken from the original packages, is not an undue burden on interstate commerce.

Bayside Fish Flour Co. v. *Gentry*, 297 U. S. 422: Regulation by a State of the local processing of sardines, whether taken within the waters of the State, upon the high seas, or imported, is not invalid under the commerce clause when its purpose and operation is confined to local activity, and affects interstate or foreign commerce only incidentally.

Carter v. *Carter Coal Co.*, 298 U. S. 238: As used in the commerce clause of the Constitution, the term "commerce" is equivalent of intercourse for purposes of trade, and includes transportation, purchase, sale, and exchange of commodities between citizens of different States, and embraces the instruments by which it is carried on. But production and manufacture of commodities are not commerce, even when done with intent to sell or transport the commodities out of the State, and the possibility or even certainty of interstate movement does not put a commodity in interstate commerce before it has begun to move from the State. Production or manufacture (including the mining of bituminous coal) and its subsequent sale and shipment in interstate commerce, are distinct and separate activities, the first being purely local, and the latter interstate commerce.

Production is not commerce, but a step preparatory thereto.

The labor and code provisions of the Bituminous Coal Conservation Act, and the tax imposed by that act, are unconstitutional as applied to the mining of bituminous coal, notwithstanding incidents leading up to and culminating in the mining of coal, which may affect production.

CONVICT-MADE GOODS

Whitfield v. *Ohio*, 297 U. S. 431: In view of the Hawes-Cooper Act of Congress, June 19, 1929, sec. 60, the power of a State to forbid sales of convict-made goods on the open market extends to sales in original packages shipped in from other States. The provisions of that act subjecting convict-made goods transported into any State upon arrival to the operation and effect of the laws of such State to the same effect and in the same manner as though the goods had been manufactured therein, and providing that such goods shall not be exempt therefrom because in original packages, do not constitute an unconstitutional delegation of power by Congress to the States. (Compare *Kentucky Whip & Collar Co.* v. *Illinois Central R. Co.*, 12 Fed. Supp. 37, western district. Kentucky, sustaining operation of the Hawes-Cooper Act, except so far as it might prohibit shipment or sale of convict-made goods.)

DAMAGES

Aron v. *Pennsylvania R. Co.*, 80 Fed. (2d) 100, second circuit: As to services rendered on shipments of livestock not covered in the carrier's tariff, a shipper paying such charges does not suffer damages in the amount paid, but only insofar as the amount charged exceeded a reasonable rate for the service rendered.

Acme-Evans Co. v. *Cleveland, C., C. & St. L. Ry. Co.*, 78 Fed. (2d) 543, seventh circuit: Refund of inbound freight charges by the carrier, in favor of a fictitious person, as directed by the shipper's traffic manager, who was authorized to collect payment of such refunds and to direct payment thereof to person selling grain to the shipper, was the loss of the shipper, not the loss of the carrier, when such payments were converted or embezzled by the traffic manager.

DECLARATORY JUDGMENTS

Anderson, Clayton & Co. v. *Wichita Valley Ry. Co.*, 15 Fed. Supp. 475, Southern District, Texas, Houston Div.: Under the Declaratory Judgment Act, a consignee is entitled to a declaratory judgment establishing the interstate character of shipments to him by rail from a point within a State to a port therein, for export by the buyer to other States and foreign countries, with an intermediate stop for compression, and injunction against future suits on like shipments for payment of intrastate rates thereon.

DEPRECIATION RATES

Northwestern Bell Teleph. Co. v. *Nebraska State Ry. Comm.*, 297 U. S. 471: The Commission not having prescribed rates of depreciation for telephone companies, State commissions were not deprived of power to fix such rates. The company's composite rate, authorized by the Commission to be used until rates prescribed by it became effective, was not a rate prescribed under sec. 20 (5) of the act, which section does not authorize the Commission to supplant State power to regulate telephone companies' depreciation rates except by prescribing a rate administratively determined by it.

DIVISIONS BETWEEN CARRIERS

Atlantic Coast Line R. Co. v. *Baltimore & O. R. Co.*, 12 Fed. Supp. 711, district of Maryland: When divisions had been agreed upon between the carriers prior to a reduction in joint rates prescribed by the Commission, the order terminated the agreement, and a new agreement was required by Sec. 1 (4). The Act has not destroyed the common law remedy and substituted exclusive redress by the Commission. Section 15 (6) does not expressly prohibit relief by the courts where the power to give it is not conferred on the Commission, and sections 9 and 22 (1) expressly preserve the common law remedies. A bill by a participating carrier for accounting for its fair share of the rate collected by delivering carrier will lie when the Commission has not prescribed the apportionment.

Atlantic Coast Line R. Co. v. *Pennsylvania R. Co.*, 12 Fed. Supp. 720, eastern district, Pennsylvania: The right to a fair share of the common fund is neither conferred nor taken away by the Interstate Commerce Act, and a bill for accounting by the delivering carrier will lie when the Commission has not prescribed the apportionment.

Atlantic Coast Line R. Co. v. *Pennsylvania R. Co.*, 12 Fed. Supp. 726, eastern district, Pennsylvania: A bill for accounting for fair share of joint through rate collected bringing in all parties to the haul except one will not be dismissed when the bill shows the omitted carrier was an unnecessary party because it had accepted its agreed share and had no part in the fund to be accounted for.

Northern Pac. Term. Co. v. *Spokane, P. & S. Ry.*, 79 Fed. (2d) 773, ninth circuit. The intention of the consignee-carrier as to where movement was to end, as actually carried out, determines whether or not the consignee was a participating carrier. But when the consignee has two options it must clearly and timely indicate its intention, whether at the interchange track or at its unloading tank. When the carrier had no right to move over tracks beyond the interchange track, a divisions agreement according to the switching tariff was not applicable to the consignee as a "participating carrier." Under the Commission's rule that the rail carrier-consignee is entitled to the same consideration as any commercial shipper the billing meant delivery at the interchange track, hence the consignee-carrier was not entitled to share in revenues pursuant to the switching tariff.

Morgenthau v. *Sugar Land Ry. Co.*, 83 Fed. (2d) 72, fifth circuit: Divisions of joint rates established prior to federal control persisted during federal con-

trol, and increases in joint rates made by the Director General were rightly prorated as divisions, regardless of whether a participant had been discharged from Federal control before the date of the increase. The principles of equity used to enforce a fair account from one who has received money for another, or one who has been engaged in a joint enterprise with another and collected more than his share of the profits, or used at law in an action for money had and received, may be applied to two common carriers, except so far as statutes may prevent.

EMERGENCY RAILROAD TRANSPORTATION ACT

Atlantic Coast Line R. Co. v. *Hampton & B. R. Co.*, 80 Fed. (2d) 797, fourth circuit: The Emergency Railroad Transportation Act prohibiting elimination of joint routes without consent of participating lines or upon the Coordinator's order did not curtail the Commission's powers or duties. A railroad objecting to joint rates filed with the Commission by another carrier, claimed to have the effect of closing an existing joint route without consent of participating roads, must exhaust its administrative remedy before the Commission, and procure a determination of reasonableness and legality of rates under the tariff, before resorting to the courts.

FULL-CREW REQUIREMENTS

Missouri Pac. R. Co. v. *Norwood*, 13 Fed. Supp. 24, western district, Arkansas: Full-crew requirements of a State upheld, the question whether the commerce clause is thereby violated having been settled by the Supreme Court in favor of the act, despite improvements in roadbed, equipment, safety training and devices, and changes in operating costs and conditions, since enactment, which did not show that application of the statutes was arbitrary and unreasonable, or denied due process.

HEARING

The Grecian, 78 Fed. (2d) 657, second circuit: The Commission's order involving combined rail and lake transportation which required direct assumption of liability for loss or damage to support an advanced rate is not binding on a shipper who was not a party to the hearing. A hearing is an essential prerequisite to the imposition of a rate by the Commission.

JUDICIAL REVIEW

St. Joseph Stock Yards Co. v. *United States*, 298 U. S. 38: When the legislature itself acts within its field of legislative discretion, its determinations are conclusive. When it appoints an agent to act within that sphere of legislative authority, it may endow the agent with power to make findings of fact which are conclusive, provided the requirements of due process specially applicable to such an agency are met, as in according a fair hearing and acting upon evidence and not arbitrarily. In such cases, judicial inquiry into the facts goes no further than to ascertain whether there is evidence to support the findings, and the question of fact lies with the legislative agency acting within its statutory authority. When the legislature acts directly, its action is subject to judicial scrutiny and determination in order to prevent transgression of the due process and just compensation limits of the Constitution. The legislature cannot preclude that scrutiny or determination by any declaration or legislative finding; and its declaration or finding is subject to independent judicial review upon the facts and the law, to the end that the Constitution as the supreme law of the land may be maintained. Nor can the legislature escape the constitutional limitation by authorizing its agent to make findings that the agent has kept within that limitation.

MOTOR VEHICLES

Morf v. *Bingaman*, 298 U. S. 407: A State tax levied upon automobile caravans, which is not on the use of the highways but on the privilege of using them, without specific limitation as to mileage, of a flat fee not shown to be unreasonable, and not based on mileage, is not a forbidden burden on interstate com-

merce. It is not important that a part of the fees collected is not devoted directly to highway maintenance, the cost of which the State pays in part from the proceeds of a general property tax.

Britton Motor Service v. *Dammann*, 14 Fed. Supp. 634, western district, Wisconsin: A State has the constitutional power to impose a flat registration fee for the use of its highways upon all motor vehicles engaged as common carriers, even though employed exclusively in interstate commerce. A State statute not discriminating against interstate commerce, imposing a flat registration fee, devoted to the use of the highways, and not an undue burden upon interstate commerce, does not conflict with the Federal Motor Carrier Act. An interstate motor carrier seeking to enjoin the enforcement of such State statute has the burden of proof as to alleged undue burdening of interstate commerce.

Golden Eagle Western Lines, Inc., v. *Bingaman*, 14 Fed. Supp. 17, district of New Mexico: The right to carry on interstate commerce gives a motor carrier no right to use the State highways or park in the State House grounds as a garage without paying a fair charge therefor.

Oilwell Express Corp. v. *Railroad Comm. of California*, 11 Fed. Supp. 665, southern district, California, central division: The burden of proof to show that a motor vehicle company was not a common carrier, in suit to restrain a State Railroad Commission's order to cease operation without a certificate authorizing such operation was upon the motor carrier.

Motor Transit Co. v. *Railroad Comm. of California*, 15 Fed. Supp. 630, southern district, California, central division: A State statute requiring agents selling passenger tickets over the highways of the State to give bonds conditioned for the faithful performance of transportation contracts is unconstitutional as a direct burden on interstate commerce as applied to motor stage companies engaging in interstate commerce under the Motor Carrier Act, 1935.

L. & L. Freight Lines, Inc., v. *Douglass*, 14 Fed. Supp. 399, northern district, Florida: The Commission's order of Sept. 30, 1935, under sec. 227, made it clear that the taking effect of the provisions of sec. 206 (b) of the Motor Carrier Act was postponed solely for administrative reasons, and not to confer further rights upon those engaged in transportation in interstate commerce, and that it was not the intention of the Commission to enlarge these rights, but only to increase the time within which applications for certificates might be filed, the increase of time being given for the reason the printed forms prepared by the Commission were not ready for distribution. The postponement of the effective date was for the benefit only of those who could not qualify under the "grandfather clause" as of June 1, 1935, but were engaged in transportation as a common carrier by motor vehicle on Oct 1, 1935. A motor carrier which had not operated as an interstate carrier until Oct. 13, 1935, cannot benefit by the order.

Douglass v. *Pan-American Bus Lines*, 81 Fed. (2d) 222, fifth circuit: On appeal from an interlocutory order which restrained the State commission from interfering with interstate bus operation because the bus line did not have a State certificate, the question as to whether the Federal Motor Carrier Act deprived the State commission of jurisdiction to control interstate traffic until the Interstate Commerce Commission assumed active jurisdiction could not be considered. That question is within the jurisdiction of a district judge, and the matter involved is not moot because the Interstate Commerce Commission had begun in the interim to function under the statute and the intention to prevent operation because of operator's lack of a State certificate persisted.

D. A. Beard Truck Line Co. v. *Smith*, 12 Fed. Supp. 964, southern district, Texas, Houston division: Bills by motor vehicle operators seeking injunctions to restrain State officers from enforcing as to them State statutes for regulation of motor carriers on the ground that the State laws are superseded by the Federal motor carrier act do not present a question of the constitutionality of the State statute; hence a three-judge court is without jurisdiction of the bills.

RAILWAY LABOR ACT

System Federation No. 10 v. *Virginian Ry. Co.*, 11 Fed. Supp. 621, eastern district, Virginia, Norfolk division: Employees of an interstate railway engaged in heavy repairs on locomotives and cars withdrawn from service some three or four months for such repair are not removed from the operation of the Railway Labor Act; such work is not too remote to affect interstate commerce.

SAFETY APPLIANCE ACTS

Geraghty v. *Lehigh Valley R. Co.*, 11 Fed. Supp. 378, eastern district, New York: Violation of the safety appliance acts resulting in death of an employee is to be visited upon the employer whether or not the cars involved were themselves vehicles of interstate commerce.

Geraghty v. *Lehigh Valley R. Co.*, 83 Fed. (2d) 738, second circuit: When the employee was not engaged in interstate commerce when he met his death as a result of defective coupling, the administrator could recover only for a violation of the safety appliance acts; since nothing in the safety appliance acts forbids application of the State workmen's compensation law, that law affords the only remedy available to the railroad.

Chicago, M., St. P. & P. R. Co. v. *Goldhammer*, 79 Fed. (2d) 272, eighth circuit: Preparation of a coupler for impact is not distinct from the act of coupling. A coupler is defective when the knuckle does not have a knuckle pin. An employee injured while attempting to open the coupler has a cause of action notwithstanding that he was not making a coupling and none was immediately intended.

Leuthe v. *Erie R. Co.*, 12 Fed. Supp. 161, western district, New York: Under the safety appliance acts, defendant being an interstate carrier, the (employe) plaintiff was protected from injury through the defective coupling whether the car was at the moment being shifted in local commerce or in conjunction with interstate commerce, and it is immaterial what the destination of the car may have been.

Chesapeake & O. R. Co. v. *Rich*, 81 Fed. (2d) 584, sixth circuit: Rule 131 made by the Commission was promulgated under the boiler inspection act although requirements of that act were complied with if an engine in yard service was equipped with lamps on the front and rear, in good condition, yet the failure of the carrier's servants to keep the lamp burning as the engine proceeded constituted negligence rendering the carrier liable under the Federal employers' liability act—but failure to charge that the case arose under the boiler inspection act and to apply provisions of that act in certain respects was not prejudicial to the carrier, for the duty resting upon the carrier under the safety appliance acts is absolute.

Northern Pac. Ry. Co. v. *Cooney*, 12 Fed. Supp. 73, district of Montana: A State statute requiring all railroad engines and locomotives to be equipped with a rear headlight is invalid, the boiler inspection act having placed the equipment of locomotives within the exclusive jurisdiction of the commission, even though the light would be a benefit to and add to the safety of employees and the public. Relief must be sought by application to the commission.

TARIFF CONSTRUCTION

Louisville Water Co. v. *Illinois Central R. Co.*, 14 Fed. Supp. 301, western District, Kentucky: When the switching tariff is of doubtful application, the line-haul rate and not the switching charge applies on movement over the line of a connecting carrier to destination within the city's corporate limits, the bill of lading having designated the city, "route Crescent Hill Pumping Plant, L. & N. delivery", the intent being that the movement should be continuous. Such designation in the bill of lading was as effective as if there had been a joint through rate from the point of origin to destination. Ordinarily in rate making a transfer service is distinguished from transportation, and a switching service is usually defined as one which precedes or follows transportation on which legal freight charges have already been earned or are to be earned.

Indemnity Ins. Co. v. *Atchison, T. & S. F. Ry. Co.*, 85 Fed. (2d) 438, ninth circuit: The rule of the Western Classification requiring unloading of carload shipments by the consignee does not compel an inference that the unloading of a shipment of girders was performed by the consignee rather than by the railroad, when the transportation from the point of destination to that of unloading was not under tariffs, but on a new and entirely separate and unusual compensation for special and intricate services.

Hygrade Food Products Corp. v. *Chicago, M., St. P. & P. R. Co.*, 85 Fed. (2d) 113, second circuit: Shippers, being required to know the contents of published tariffs, there is no room to estop a carrier from charging the lawful rate shown in its properly filed tariff.

When the construction of a tariff involves words used in their ordinary meaning and requires no technical or expert knowledge possessed by the Interstate Commerce Commission, the courts are at liberty to decide independently of the Commission. The application of the Jones combination rule in *Sligo Iron Store Co.* v. *Western Maryland Ry. Co.*, 62 I. C. C. 643, 73 I. C. C. 551 disapproved, and the rule held inapplicable to carriers participating in a shipment, when initial and intermediate carriers did not concur with the delivering carrier in the application of the rule.

TAXATION

Pacific Teleph. & Teleg. Co. v. *Tax Commission*, 297 U. S. 403: A tax upon the privilege of engaging in local business is void if, by reason of its character or amount, it, in fact, imposes a direct burden upon interstate commerce. A State tax upon local business will not be held void despite its burden when the local business is conducted at a profit, or when conducted at a loss if the corporation wishes to continue the local business for benefits received, present or prospective.

Great Northern Ry. Co. v. *Weeks*, 297 U. S. 135: The problem of apportionment of value for tax purposes is a difficult one. Controlling conditions vary greatly from time to time. Allocations to be sufficiently accurate for practical purposes must be arrived at by the exercise of sound judgment based on facts that fairly reflect the relation between value of the system as a whole and value of the part within a State. The first step in valuation of property within a State is to determine the value of the entire system. Two classes of evidence are ordinarily considered—average market price of stock and bonds, and past earnings over a period of years. As stock and bond prices reflect value of the entire railroad, the value of nonoperating property is to be eliminated. The method requires a definite period over which to average price quotations, which must of necessity be somewhat arbitrarily fixed.

Northern Pac. Ry. Co. v. *Henneford*, 15 Fed. Supp. 302, district of Washington, eastern division: A State "compensating tax" based on the purchase price of personalty, and levied on the use of property after it has been brought into the State, is unconstitutional as applied to personalty bought by a railroad company and used and consumed in the State for the maintenance of its railroad, which is used in both intrastate and interstate commerce.

APPENDIX F

AUTHORIZATIONS UNDER SECTIONS OF THE INTERSTATE COMMERCE AND TRANSPORTATION ACTS, LOANS UNDER THE RECONSTRUCTION FINANCE CORPORATION ACT, AND APPROVAL OF RAILROAD MAINTENANCE AND EQUIPMENT UNDER THE NATIONAL INDUSTRIAL RECOVERY ACT

CERTIFICATES OF CONVENIENCE AND NECESSITY FOR CONSTRUCTION OF LINES OF RAILROAD ISSUED UNDER SECTION 1 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Name of applicant	Location of line	Mileage
Chicago & North Western Ry. Co. and its trustee.	Wood County, Wis	.207
Georgia & Florida R. R., by its receivers	Colquitt County, Ga	1.650
Gold Coast R. R	Curry and Josephine Counties, Oreg	90.000
Oregon Pacific & Eastern Ry. Co	Lane County, Oreg	3.000
Seaboard Air Line Ry. Co., by its receivers	Highlands County, Fla	10.000
Wisconsin Central Ry. Co. and its receiver	Wood County, Wis	.226
Total number of miles		105.083

CERTIFICATES OF CONVENIENCE AND NECESSITY FOR ABANDONMENT OF LINES OF RAILROAD OR THE OPERATION THEREOF, ISSUED UNDER SECTION 1 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Name of applicant	Location of line	Mileage
Alabama Central Ry. Co	Autauga Counta, Ala	2.300
Alcolu R. R. Co	Clarendon and Florence Counties, S. C	25.000
Atchison, Topeka & Santa Fe Ry. Co	Leavenworth and Atchison Counties, Kans	21.370
Atlantic Northern Ry. Co	Cass, Shelby, and Audubon Counties, Iowa	17.070
Atlantic & Yadkin Ry. Co	Guilford and Rockingham Counties, N. C	11.310
Baltimore & Ohio R. R. Co	Tuscarawas County, Ohio	1.350
Bellevue & Cascade R. R. Co	Dubuque and Jackson Counties, Iowa	35.700
Blissfield R. R. Co	Lenawee County, Mich	12.500
Boise & Western R. R. Co	Ada County, Idaho	25.200
Boonville, St. Louis & Southern Ry. Co. and Missouri Pacific R. R. Co., by its trustee.	Cooper, Moniteau, and Morgan Counties, Mo	43.000
Boston & Maine R. R	Merrimack County, N. H	.227
Do	Middlesex County, Mass	1.500
Do	Merrimack and Grafton Counties, N. H	13.000
Buffalo & Susquehanna R. R. Corporation and Baltimore & Ohio R. R. Co.	Potter County, Pa	8.296
Canton & Carthage R. R. Co	Leake and Neshoba Counties, Miss	15.000
Do	Rankin County, Miss	13.750
Carlton & Coast R. R. Co	Yamhill County, Oreg	3.841
Central R. R. Co. of New Jersey	Cumberland County, N. J	3.000
Central West Virginia & Southern R. R. Co	Tucker and Randolph Counties, W. Va	21.100
Chicago & North Western Ry. Co. and its trustee.	Iron County, Mich	6.855
Do	Lincoln County, Wis	2.065
Do	Marathon County, Wis	4.750
Do	Wood County, Wis	11.390
Chicago & North Western Ry. Co., by its trustee.	DeKalb County, Ill	3.825
Do	Boone and Winnebago Counties, Ill	8.454
Do	Crawford County, Iowa	6.162
Do	Iron County, Mich	6.344
Do	Langlade County, Wis	1.704
Do	do	1.848
Do	Iron and Vilas Counties, Wis	18,981
Do	Oconto, Shawano, and Waupaca Counties, Wis.	26.752
Chicago, Burlington & Quincy R. R. Co	Page County, Iowa	13.500
Do	Appanoose County, Iowa, and Putnam, Schuyler, and Adair Counties, Mo.	35.940
Chicago Great Western R. R. Co., by its trustees.	Winona County, Minn	7.463

Certificates of Convenience and Necessity for Abandonment of Lines, etc.—Con.

Name of applicant	Location of line	Mileage
Chicago, Milwaukee, St. Paul & Pacific R. R. Co., by its trustees.	Sargent County, N. Dak	7.490
Do	Bonne Homme County, S. Dak	11.200
Chicago, Rock Island & Pacific Ry. Co., by its trustees.	Grundy County, Ill	2.600
Do	Mercer County, Ill	4.460
Do	Jasper County, Iowa	9.620
Chicago, St. Paul, Minneapolis & Omaha Ry. Co.	Taylor County, Wis	4.170
Choctaw, Oklahoma & Gulf R. R. Co. and Chicago, Rock Island & Pacific Ry. Co., by their trustees.	Alfalfa County, Okla., and Harper County, Kans.	32.830
Colorado & Southern Ry. Co	Arapahoe, Douglas, Elbert, and El Paso Counties, Colo.	65.160
Do	Jefferson, Douglas, Park, Summit, and Lake Counties, Colo.	170.220
Davenport, Rock Island & North Western Ry. Co., Chicago, Milwaukee, St. Paul & Pacific R. R. Co., and Chicago, Burlington & Quincy R. R. Co.	Rock Island County, Ill	5.743
Delaware River Ferry Co. of New Jersey	Philadelphia County, Pa., and Camden County, N. J.	2.800
Des Chutes R. R. Co. and Union Pacific R. R. Co.	Sherman and Wasco Counties, Oreg	71.260
Duluth & Iron Range R. R. Co. and Duluth, Missabe & Northern Ry. Co.	Lake and St. Louis Counties, Minn	15.010
East St. Louis, Columbia & Waterloo Ry	St. Clair and Monroe Counties, Ill	22.180
Florida East Coast Ry. Co., by its receivers	Dade and Monroe Counties, Fla	125.000
Great Northern Ry. Co	Rolette County, N. Dak	3.550
Do	Pembina and Cavalier Counties, N. Dak	5.320
Hickory Valley R. R. Co	Forest County, Pa	2.493
Illinois Central R. R. Co	Warren County, Ind	6.000
Illinois Traction, Inc., and Illinois Terminal Co.	Vermilion County, Ill	10.250
Kansas Southwestern Ry. Co. and Atchison, Topeka & Santa Fe Ry. Co.	Cowley and Sumner Counties, Kans	7.200
Lake Erie, Franklin & Clarion R. R. Co	Clarion County, Pa	4.200
Lehigh Valley R. R. Co	Luzerne County, Pa	11.270
Los Angeles & Salt Lake R. R. Co. and Union Pacific R. R. Co.	Clark County, Nev	4.460
Louisiana Southern Ry. Co., by its receivers	St. Bernard Parish, La	6.500
Louisville & Nashville R. R. Co	Montgomery and Dickson Counties, Tenn	37.000
Louisville & Nashville R. R. Co. and Nashville, Chattanooga & St. Louis Ry.	Henderson and Decatur Counties, Tenn	24.140
Maine Central R. R. Co	Somerset County, Maine	51.360
Do	Franklin and Oxford Counties, Maine	10.820
Manistee & Repton R. R. Co	Monroe County, Ala	12.000
Marianna & Blountstown R. R. Co	Calhoun County, Fla	14.000
Michigan Central R. R. Co. and New York Central R. R. Co.	Cheboygan County, Mich	12.750
Midland R. R. Co. and Canadian Pacific Ry. Co.	Troy County, Vt	.950
Midland Valley R. R. Co	Tulsa and Creek Counties, Okla	8.600
Minneapolis & St. Louis R. R. Co., by its coreceivers.	Kossuth County, Iowa	8.500
Do	Clay and Buena Vista Counties, Iowa	34.900
Do	Boone and Webster Counties, Iowa	36.300
Do	Poweshiek County, Iowa	13.600
Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.	Barron and Washburn Counties, Wis	16.570
Missouri & Kansas R. R. Co	Wyandotte and Johnson Counties, Kans., and and Jackson County, Mo.	24.000
Missouri Pacific R. R. Co. and its trustees	Linn County, Kans	12.000
Do	Franklin and Johnson Counties, Ark	12.270
Moosic Mountain & Carbondale R. R. Co. and Erie R. R. Co.	Lackawanna County, Pa	2.457
New York & Pennsylvania Ry. Co	Steuben and Allegany Counties, N. Y. and Potter and McKean Counties, Pa.	57.000
New York Central R. R. Co. and Evansville, Indianapolis & Terre Haute Ry. Co.	Gibson County, Ind	8.980
Northern Pacific Ry. Co	Silver Bow County, Mont	4.017
Do	Umatilla County, Oreg	.758
Northwestern Pacific R. R. Co	Mendocino County, Calif	26.652
Pacific Coast Ry. Co	Santa Barbara County, Calif	12.010
Pennsylvania R. R. Co	Fayette County, Pa	2.550
Do	do	1.420
Do	Clearfield, Cambria, Somerset, Allegheny, Center, and Clarion Counties, Pa.	20.190
Pennsylvania, Ohio & Detroit R. R. Co. and Pennsylvania R. R. Co.	Coshocton and Knox Counties, Ohio	19.500
Do	Muskingum and Coshocton Counties, Ohio	10.850
Philadelphia & Beach Haven R. R. Co	Ocean County, N. J	12.110
Philadelphia, Baltimore & Washington R. R. Co. and Pennsylvania R. R. Co.	Chester County, Pa., and New Castle County, Del.	3.440

Certificates of Convenience and Necessity for Abandonment of Lines, etc.—Con.

Name of applicant	Location of line	Mileage
Pittsburgh & Susquehanna R. R. Co., by its receiver.	Clearfield County, Pa	22.020
Puget Sound & Cascade Ry. Co	Skagit County, Wash	3.800
Quanah, Acme & Pacific Ry. Co	Motley County, Tex	8.080
Rumford Falls & Rangeley Lakes R. R. Co., Portland & Rumford Falls R. R., and Maine Central R. R. Co.	Oxford and Franklin Counties, Maine	35.970
Reading Co	Schuylkill, Luzerne, and Carbon Counties, Pa	4.360
Rock Island Southern Ry. Co	Mercer County, Ill	4.460
St. Louis Southwestern Ry. Co. and its trustee	Cross and Crittenden Counties, Ark	31.000
Do	Craighead and Mississippi Counties, Ark	3.650
Southern Ry. Co.—Carolina Division and Southern Ry. Co.	Sumter County, S. C	15.800
Southern Pacific Co	Lane County, Oreg	11.099
South Pacific Coast Ry. Co. and Southern Pacific Co.	Cities of San Francisco and Alameda, Calif	3.000
Texas & Pacific Ry. Co	Palo Pinto and Erath Counties, Tex	6.210
Do	Caddo Parish, La	.730
Tionesta Valley Ry. Co	Warren County, Pa	7.190
Trinity Valley Southern R. R. Co	Walker and San Jacinto Counties, Tex	5.920
Tuckerton R. R. Co	Ocean County, N. J	28.900
Ursina & North Fork Ry. Co	Somerset County, Pa	4.500
Ventura County Ry. Co	Ventura County, Calif	.350
Do	do	.590
Valley R. R. Co	McKean County, Pa	9.410
Washington & Old Dominion Ry., by its receiver.	Arlington, Fairfax, and Loudoun Counties, Va	59.000
Weatherford, Mineral Wells & Northwestern Ry. Co.	Palo Pinto County, Tex	12.040
West River R. R. Co. and James G. Ashley, lessee.	Windham County, Vt	36.000
Wheeling & Lake Erie Ry. Co	Carroll County, Ohio	11.870
Wisconsin Central Ry. Co. and Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., as agent.	Wood County, Wis	11.320
Yale Short Line R. R. Co	Clark, Cumberland, and Jasper Counties, Ill	12.500
Total number of miles		1,902.996

CERTIFICATES OF CONVENIENCE AND NECESSITY FOR ACQUISITION AND/OR OPERATION OF LINES OF RAILROAD ISSUED UNDER SECTION 1 (18) OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Name of applicant	Location of line	Mileage
Baltimore & Ohio R. R. Co	Tuscarawas County, Ohio	.46
Blissfield R. R. Co	Lenawee County, Mich	12.50
Chicago, Milwaukee, St. Paul & Pacific R. R. Co., by its trustees.	Buena Vista County, Iowa	12.00
Chicago & North Western Ry. Co., and its trustee.	Wood County, Wis	11.00
Des Chutes R. R. Co. and Union Pacific R. R. Co.	Wasco County, Oreg	74.75
East Washington Ry. Co	Prince Georges County, Md., and D. C	2.90
Grand Trunk Western R. R. Co	Shiawasee, Clinton, and Gratiot Counties, Mich.	20.50
Kanawha & Michigan Ry. Co	Mason County, W. Va., and Gallia County, Ohio.	.74
Milwaukee, Rockford & Southwestern R. R. Co.	Putnam and Marshall Counties, Ill	20.88
Missouri & Arkansas Ry. Co	Jasper County, Mo	6.66
New York Central R. R. Co	St. Clair County, Ill	7.16
New York, Ontario & Western Ry. Co	Lackawanna and Luzerne Counties, Pa	10.34
Northern Pacific Ry. Co	Umatilla County, Oreg	1.94
Pennsylvania R. R. Co	Jefferson County, Ohio	9.64
Philadelphia, Baltimore & Washington R. R. Co.	Anne Arundel and Prince Georges Counties, Md.	6.40
St. Louis, San Francisco & Texas Ry. Co	Tarrant County, Tex	1.70
Southern Pacific Co	Yuma County, Ariz	15.00
South Georgia Ry. Co	Taylor County, Fla	1.11
Suncook Valley R. R	Merrimack County, N. H	1.80
Washington & Old Dominion R. R	Arlington County, Va	5.00
Wisconsin Central Ry. Co. and its receiver, or the Minneapolis, St. Paul & Sault Ste. Marie Ry. Co., as agent.	Wood County, Wis	11.00
Total number of miles		233.48

AUTHORIZATIONS TO ONE CARRIER TO PURCHASE, LEASE, OR OPERATE UNDER CONTRACT PROPERTIES OF ANOTHER CARRIER OR TO ACQUIRE CONTROL OF ANOTHER CARRIER THROUGH PURCHASE OF CAPITAL STOCK ISSUED UNDER SECTION 5 (4) OF THE INTERSTATE COMMERE ACT, AS AMENDED

Acquiring carrier	Owning company	Miles of road	How acquired
Baltimore & Ohio R. R. Co	Pennsylvania R. R. Co	1.380	Purchase of one-half leasehold interest in 0.28 mile, and one-half ownership in 1.10 miles.
Boston & Albany R. R. Co., and New York Central R. R. Co.	North Brookfield R. R. Co	4.160	Lease.
Central Vermont Terminal, Inc	Central Vermont Transportation Co		Purchase of leasehold interest in pier 29, East River, New York.
Central Vermont Railway, Inc	Central Vermont Terminal, Inc		Purchase of stock.
Central R. R. Co. of New Jersey	Ogden Mine R. R. Co	9.690	Do.
Chicago & Illinois Midland Ry. Co.	Springfield, Havana & Peoria R. R. Co	77.020	Purchase.
Chicago, Burlington & Quincy R. R. Co.	Green Bay & Western R. R. Co	2.655	Do.
Erie R. R. Co	West Clarion R. R. Co	.950	Purchase of stock.
Kanawha & Michigan Ry. Co	Kanawha & West Virginia Ry. Co	43.730	Purchase.
Louisville & Nashville R. R. Co	Black Mountain R. R. Co	8.260	Do.
Do	South East & St. Louis Ry. Co	207.890	Do.
Do	Cumberland & Manchester R. R. Co	26.430	Do.
Moosic Mountain & Carbondale R. R. Co.	Grassy Island R. R. Co	.418	Do.
New York Central R. R. Co	Genesee Falls Ry. Co	1.920	Purchase of stock and merger.
Do	St. Lawrence & Adirondack Ry. Co	10.230	Lease.
Norfolk & Western Ry. Co	Tug River & Kentucky R. R. Co., Williamson & Pond Creek R. R. Co., Buck Creek R. R. Co., and Knox Creek Ry. Co.	26.700	Purchase.
Pennsylvania-Reading Seashore Lines.	Stone Harbor R. R. Co	3.900	Do.
Pennsylvania R. R. Co	Philadelphia, Baltimore & Washington R. R. Co.	6.400	Lease.
Schonthol, J. Co	Blissfield R. R. Co	12.500	Purchase of stock.
Southern Pacific Co	Interurban Electric Ry. Co		Do.
Southern Pacific R. R. Co	Fresno Traction Co	8.687	Purchase.
Suncook Valley R. R	Boston & Maine R. R	6.900	Lease.
Sylvania Ry. Co	Sylvania Central Ry. Co	14.710	Do.
Tioga R. R. Co	Arnot & Pine Creek R. R. Co	12.000	Merger.
Union Pacific R. R. Co	Laramie, North Park & Western R. R. Co.	111.350	Purchase of stock.
Union Pacific R. R. Co., and Oregon Short Line Ry. Co.	Pacific & Idaho Northern Ry. Co	90.000	Purchase and lease.
Virginian Ry. Co	Virginian & Western Ry. Co., and Virginia Terminal Ry. Co.	43.370	Merge.
Washington & Old Dominion R. R.	Southern Ry. Co	54.000	Lease.
West Clarion R. R. Co	Brockport & Shawmut R. R. Co	2.100	Merger.
Total		787.350	

AUTHORIZATION OF THE ISSUANCE OF SECURITIES AND THE ASSUMPTION OF OBLIGATIONS AND LIABILITIES IN RESPECT OF THE SECURITIES OF OTHERS UNDER SECTION 20A OF THE INTERSTATE COMMERCE ACT, AS AMENDED

Stock, common:	
For acquisition of property including equipment	$169,500.00 [1] 100
For acquisition of securities of other companies	$277,400.00
For conversion of unmatured funded debt	307,800.00
For exchange for common stock	34,014,300.00 [1] 160,000
For exchange for preferred stock	$3,828,000.00
For general corporate purposes (not segregated)	6,200.00
For payment of advances	3,158,700.00
For stock dividends	121,000.00
Total	$41,882,900.00 [1] 160.100
Stock, preferred:	
For conversion of unmatured funded debt	[1] 1,905,596
For exchange for preferred stock	$40,169,000.00 [1] 2,497,483.5
For sale to redeem stock	$3,828,000.00
Total	$43,997,000.00 [1] 4,403,079.5
Stock, prior-lien: For exchange for prior-lien stock	$11,882,600.00
Stock, prior-preference: For exchange for prior-preference stock	$3,000,000.00
Stock, special guaranteed betterment: For payment of advances	$91,700.00
Assumption of obligation and liability in respect of $91,700.	
Total stock	$100,854,200.00 [1] 4,563,179.5
Bonds, collateral-trust:	
For exchange for bonds previously authorized	$467,000.00
For exchange for bonds previously issued	3,000,000.00
For general corporate purposes (not segregated)	300,000.00
For refunding purposes	40,000,000.00
For sale to meet unmatured funded debt	44,000,000.00
For sale to meet unfunded debt	16,000,000.00
Total	103,767,000.00
Bonds, mortgage:	
For exchange for bonds previously authorized	33,752,000.00
For exchange for matured funded debt	10,200,000.00
For exchange for matured funded debt or for sale to meet matured funded debt	99,422,400.00
For extension of matured funded debt	7,092,000.00
For general corporate purposes (not segregated)	20,000,000.00
For payment of advances	6,359,000.00
For pledge	409,406,900.00
For refunding purposes	861,000.00
For reimbursement of treasury for capital expenditures not capitalized	500,000.00
For reimbursement of treasury for moneys used to retire, refund, or pay existing bonds	681,482.00
For retention in treasury subject to further order	35,664,000.00
For sale to meet matured funded debt	23,024,000.00
For sale to meet unmatured funded debt	307,385,518.00
Assumption of obligation and liability in respect of $93,274,000.	
Total	954,348,300.00
Total bonds	1,058,115,300.00
Debentures:	
For payment of advances	1,500,000.00
For sale to meet unmatured funded debt	53,835,000.00
Assumption of obligation and liability in respect of $7,000,000.	
Total	55,335,000.00

[1] Shares of stock without nominal or par value.

Authorization of the Issuance of Securities, etc.—Continued

Notes, secured:	
For exchange for notes previously authorized	$3,950,000.00
For extension of matured unfunded debt	5,000,000.00
For general corporate purposes (not segregated)	15,382,751.19
For pledge	16,000.00
For refunding purposes	88,683,451.04
For retention in treasury subject to further order	672,908.48
For sale to meet unfunded debt	15,677,091.52
Assumption of obligation and liability in respect of $710,000.	
Total	129,382,202.23
Notes, unsecured:	
For acquisition of equipment	400,000.00
For general corporate purposes (not segregated)	5,285,000.00
For payment of advances	5,136,144.38
For refunding purposes	298,040.41
For sale to meet unmatured funded debt	16,300,000.00
Total	27,419,184.79
Total notes	156,801,387.02
Equipment obligations:	
Assumed by carriers	68,810,000.00
Issued by carriers	9,700,000.00
Assumption of obligation and liability in respect of $409,000.	
Total	78,510,000.00
Certificates, receivers':	
For general purposes (not segregated)	25,000.00
For refunding purposes	2,193,000.00
Total	2,218,000.00
Certificates, trustees:	
For acquisition of equipment	250,000.00
For general purposes (not segregated)	12,630,000.00
For refunding purposes	3,000,000.00
Total	15,880,000.00
Total certificates	18,098,000.00
Notes, trustees:	
For general purposes (not segregated)	10,000.00
For refunding purposes	43,387.51
Total	53,387.51
Grand total securities	1,467,767,274.53
	[1] 4,563,179.5

[1] Shares of stock without nominal or par value.

CERTIFICATES OF APPROVAL OF RAILROAD MAINTENANCE AND EQUIPMENT ISSUED UNDER SECTION 403 (A), CLAUSE (4), NATIONAL INDUSTRIAL RECOVERY ACT

Name of applicant	Description	Amount
Boston & Maine R. R.	Replacing and repairing of roadway, track, and structures.	$2,250,000.00
Erie R. R. Co.	Acquisition of new equipment	2,275,000.00
Do.	Purchase and installation of rail and other track material.	1,098,199.78
Illinois Central R. R. Co.	Repairing and overhauling of equipment	3,000,000.00
Lehigh Valley R. R. Co.	Construction of new equipment	2,082,000.00
Kansas, Oklahoma & Gulf Ry Co.	Purchase and installation of rail and fastenings	285,000.00
New York Central R. R. Co.	Purchase and installation of new rail and track material.	2,593,000.00
Total		13,583,199.78

CERTIFICATES OF APPROVAL OF LOANS ISSUED UNDER SECTION 5 OF THE RECONSTRUCTION FINANCE CORPORATION ACT, AS AMENDED

Carrier	Loan approved
Baltimore & Ohio R. R. Co	$5,000,000
Charles City Western Ry. Co	140,000
Chicago Great Western R. R. Co	150,000
Chicago, Milwaukee, St. Paul & Pacific R. R. Co	[1] 3,840,000
Fort Worth & Denver City Ry. Co	[1] 8,176,000
Great Northern Ry Co	[2] 99,422,400
Illinois Central R. R. Co	7,449,667
Maryland & Pennsylvania R. R	97,000
Pioneer & Fayette R. R. Co	[1] 7,000
Southern Ry. Co	4,859,000
Total	129,141,067

[1] Purchase of securities of carrier by Reconstruction Finance Corporation.
[2] Agreement by the Reconstruction Finance Corporation to purchase securities not otherwise disposed of.

STATUS OF OUTSTANDING LOANS UNDER SECTION 210 OF THE TRANSPORTATION ACT, 1920, AS AMENDED

A. PRINCIPAL AMOUNT UNMATURED

Carrier	Amount
Alabama, Tennessee & Northern R. R. Corporation	$12,400
Missouri & North Arkansas R. R. Co	3,500,000
Seaboard Air Line Ry. Co	6,898,500
Total	10,410,900

B. PRINCIPAL AND INTEREST IN DEFAULT BY CARRIERS ON OCT. 1, 1936

Carrier	Principal	Interest
Alabama, Tennessee & Northern R. R. Corporation	$139,100.00	$22,725.00
Aransas Harbor Terminal Ry	44,304.67	10,711.87
Charles City Western Ry. Co	140,000.00	----------
Des Moines & Central Iowa R. R	633,500.00	342,763.49
Fort Dodge, Des Moines & Southern R. R. Co	200,000.00	83,164.91
Gainesville & Northwestern R. R. Co	75,000.00	60,602.53
Georgia & Florida Ry., receiver of	792,000.00	332,640.00
Minneapolis & St. Louis R. R. Co	1,382,000.00	1,082,069.73
Missouri & North Arkansas Ry. Co	[1]	2,558,237.04
Salt Lake & Utah R. R. Co	872,600.00	628,216.80
Seaboard Air Line Ry. Co	8,798,077.88	5,616,458.16
Shearwood Ry. Co	7,500.00	----------
Virginia Blue Ridge Ry. Co	106,000.00	66,651.75
Virginia Southern R. R. Co	38,000.00	24,307.84
Waterloo, Cedar Falls & Northern Ry. Co	1,260,000.00	1,069,237.04
Wichita Northwestern Ry. Co	381,750.00	286,312.50
Wilmington, Brunswick & Southern R. R. Co	90,000.00	35,100.00
Total	14,959,832.55	12,219,198.66

[1] Principal not yet due.

APPENDIX G

RAILROAD COMPANIES IN REORGANIZATION (OR RECEIVERSHIP) PROCEEDINGS

Item	Mileage operated 1935
Proceedings under section 77:	
Akron, Canton & Youngstown Ry	171
Alabama, Tennessee & Northern R. R	218
Arkansas Valley Interurban R. R. (electric)	58
Chicago & Eastern Illinois Ry	931
Chicago & North Western Ry	8,355
Chicago Great Western R. R	1,513
Chicago, Indianapolis & Louisville Ry	644
Chicago, Milwaukee, St. Paul & Pacific R. R	11,123
Chicago, Rock Island & Pacific Ry. (system)	8,297
Chicago South Shore & South Bend R. R. (electric)	90
Copper Range R. R	105
Denver & Rio Grande Western R. R	2,621
East St. Louis, Columbia & Waterloo Ry. (electric)[1]	22
Fonda, Johnstown & Gloversville R. R	65
Kansas City, Kaw Valley & Western Ry. (electric)	35
Louisiana & North West R. R	99
Meridian & Bigbee River Ry	50
Middleburg & Schoharie R. R	5
Missouri Pacific R. R. (system)	9,844
New York, New Haven & Hartford R. R. (system)	2,062
Reader R. R	22
St. Louis-San Francisco Ry	4,928
St. Louis Southwestern Ry. (system)	1,784
Savannah & Atlanta Ry	147
Spokane International Ry	164
Western Pacific R. R	1,208
Receivership proceedings (steam railroads):	
Alabama, Florida & Gulf R. R	29
Apalachicola Northern R. R	99
California & Oregon Coast R. R	15
Cape Girardeau Northern Ry	13
Central of Georgia Ry	1,927
Chicago, Attica & Southern R. R	154
Chicago, Springfield & St. Louis Ry	87
Colorado-Kansas Ry	23
Florida East Coast Ry	712
Fort Smith & Western Ry	250
Gainesville Midland Ry	74
Georgia & Florida R. R	409
Georgia Southwestern & Gulf R. R. (system)	36
Jacksonville & Havana R. R	60
Kirby Lumber Co's. Tram Roads	51
Louisiana Southern Ry	59
Minneapolis & St. Louis R. R	1,625
Mobile & Ohio R. R	1,202
Narragansett Pier R. R	8
Nevada Copper Belt R. R	30
Norfolk Southern R. R	835

[1] Ceased operations July 31, 1936.

Item	Mileage operated 1935
Receivership proceedings (steam railroads)—Continued.	
Pittsburgh, Shawmut & Northern R. R	191
Richmond Cedar Works R. R	34
Rio Grande Southern R. R	174
Seaboard Air Line Ry. (system)	4,361
Shelby Northwestern Ry	22
Sierra Ry. of California	119
Tallulah Falls Ry	57
Tonopah & Goldfield R. R	102
Wabash Ry. Co. (system)	2,741
Waco, Beaumont, Trinity & Sabine Ry	49
Wichita Northwestern Ry	99
Wilmington, Brunswick & Southern R. R	30
Yreka Western R. R	8
Receivership proceedings (electric railroads):	
Bamberger Electric R. R	37
Chicago, Aurora & Elgin R. R	77
Chicago, North Shore & Milwaukee R. R	138
Cincinnati & Lake Erie R. R	269
Dayton & Western Traction	40
Evansville & Ohio Valley Ry	40
Fort Dodge, Des Moines & Southern R. R	150
Indiana R. R	465
Lake Shore Electric Ry	129
Lorain Street R. R	12
Salt Lake & Utah R. R	76
Sandusky, Fremont & Southern Ry	20
Southwest Missouri R. R	49
Union Traction	84

APPENDIX H

STATEMENT OF APPROPRIATIONS AND OBLIGATIONS FOR THE FISCAL YEAR ENDED JUNE 30, 1936

An act making appropriations for the executive, etc., approved Feb. 2, 1935:

For 11 commissioners, secretary, and for all other authorized expenditures necessary in the execution of laws to regulate commerce, including 1 chief counsel, 1 director of finance, and 1 director of traffic at $10,000 each per annum:

General $2,796,465.00

To enable the Interstate Commerce Commission to enforce compliance with sec. 20 and other sections of the act to regulate commerce as amended by the act approved June 29, 1906, and as amended by the Transportation Act, 1920, including the employment of necessary special accounting agents or examiners:

Accounts 851,976.00

To enable the Interstate Commerce Commission to keep informed regarding and to enforce compliance with acts to promote the safety of employees and travelers upon railroads; the act requiring common carriers to make reports of accidents and authorizing investigations thereof; and to enable the Interstate Commerce Commission to investigate and test appliances intended to promote the safety of railway operation, as authorized by the joint resolution approved June 30, 1906, and the provision of the Sundry Civil Act, approved May 27, 1908, to investigate, test experimentally, and report on the use and need of any appliances or systems intended to promote the safety of railway operation, inspectors, etc.:

Safety of employees 514,195.00

For all authorized expenditures under sec. 26 of the act to regulate commerce as amended by the Transportation Act, 1920, with respect to the provision thereof, under which carriers by railroad subject to the act may be required to install automatic train-stop or train-control devices, which comply with specifications and requirements prescribed by the Commission; including investigations and tests pertaining to block-signal and train-control systems, as authorized by the joint resolution approved June 30, 1906, and including the employment of the necessary engineers:

Signal and train control devices 39,682.00

For all authorized expenditures under the provisions of the act of Feb. 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", as amended by the act of Mar. 4, 1915, extending "the same powers and duties with respect to all parts and appurtenances of the locomotive and tender" and amendment of June 7, 1924, providing for the appointment from time to time by the Interstate Commerce Commission of not more than 15 inspectors in addition to the number authorized in the first paragraph of sec. 4 of the act of 1911, and

An act making appropriations for the executive, etc., approved Feb. 2, 1935—Continued.

the amendment of June 27, 1930, including such legal, technical, stenographic, and clerical help as the business of the offices of the chief inspector and his 2 assistants may require:

Locomotive inspection $482,238.00

Valuation of property of carriers:

To enable the Interstate Commerce Commission to carry out the objects of the act entitled "An act to amend an act entitled 'An act to regulate commerce' approved Feb. 4, 1887, and all acts amendatory thereof" by providing for a valuation of the several classes of property of carriers subject thereto and securing information concerning their stocks, bonds, and other securities, approved Mar. 1, 1913, including 1 director of valuation at $10,000 per annum:

Valuation $1,041,100.00

Transferred from appropriation for Department of Agriculture "Salaries and expenses, Bureau of Animal Industry (Packers and Stockyards Act)" 2,219.00

1,043,319.00

An Act making appropriations to provide urgent supplemental appropriations for the fiscal year ending June 1936, etc. approved Feb. 11, 1936:

Motor transport regulation: For all authorized expenditures necessary to enable the Interstate Commerce Commission to carry out the provisions of the Motor Carrier Act, approved Aug. 9, 1935, including one director at $10,000 per annum and other personal services in the District of Columbia and elsewhere, traveling expenses, supplies, services, and equipment, including the purchase (not to exceed $40,000), exchange, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles when necessary for official use in field work, fiscal year 1936, $1,035,000 of which amount not exceeding $25,000 may be expended for rent in the District of Columbia provided Government-owned facilities are not available, not exceeding $75,000 may be expended for printing and binding, and not exceeding $1,000 may be expended for purchase and exchange of books, reports, and periodicals.

Motor transport regulation *960,000.00

For all printing and binding for the Interstate Commerce Commission, including reports in all cases proposing general changes in transportation rates and not to exceed $10,000 to print and furnish to the States at cost report form blanks, and the receipts from such reports and blanks shall be credited to this appropriation: *Provided*, That no part of this sum shall be expended for printing the Schedule of Sailings required by sec. 25 of the Interstate Commerce Act:

Printing and binding $125,000.00

* The $75,000 for printing and binding for this bureau appears below as it was carried in a separate account by the Treasury Department.

An Act making appropriations to provide urgent supplemental appropriations, etc.—Continued.		
An Act making appropriations to provide urgent supplemental appropriations for the fiscal year ending June 1936, etc., approved Feb. 11, 1936, Motor transport regulation	$75,000.00	
		$200,000.00
Total		6,887,875.00
Amount obligated under appropriations for the fiscal year ended June 30, 1936:		
General		2,627,504.78
Accounts		847,963.37
Safety		493,947.60
Signal and train control devices		38,008.14
Locomotive inspection		472,012.29
Valuation		1,036,921.19
Motor transport regulation		622,595.16
Printing and binding		144,885.10
Total		6,283,837.63
Unobligated balances of appropriations:		
General	$168,960.22	
Accounts	4,012.63	
Safety	20,247.40	
Signals and train control devices	1,673.86	
Locomotive inspection	10,225.71	
Valuation	6,397.81	
Motor transport regulation	337,404.84	
Printing and binding	55,114.90	
		604,037.37
Total		6,887,875.00
Statement of receipts from fees paid during the fiscal year ended June 30, 1936, as required by sec. 313, of Public, No. 212, 72d Cong.: Certifying tariffs and records		5,179.50

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